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THE
JUSTICE of the PEACE,
AND
PARISH OFFICER.

By RICHARD BURN, LL.D.
LATE CHANCELLOR OF THE DIOCESE OF CARLISLE.

THE TWENTY-FIRST EDITION:
With many CORRECTIONS, ADDITIONS, and IMPROVEMENTS,
By the late CHARLES DURNFORD, Esq.
BARRISTER AT LAW.

AND CONTINUED
By JOHN KING, of the Inner Temple, Esq.
BARRISTER AT LAW.

The CASES brought down to the End of last EASTER Term;
And the STATUTES to the End of the last Session of Parliament,
50 GEO. III. (1810.)

IN FIVE VOLUMES.
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1810.



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I. *General observations.*

It is to be observed in general, that popish recusants are liable to all the forfeitures and disabilities and other inconveniences, to which other recusants are liable; and to many others, to which other recusants are not liable. Popish recusants.

For to be a *recusant*, doth not necessarily imply the being a *papist*: but a *recusant* is any person who refuses to go to church and worship God after the manner of the church of England: a *popish recusant* is a *papist* who so refuseth; and a *popish recusant convicted* is a *papist* legally convicted thereof.

There were several statutes made against recusants in Q. Elizabeth's reign and the former part of the reign of K. James the first, which are not restrained to *popish* recusants only; but as there were few recusants but *papists* at that time, they have regard chiefly to persons of that profession; and therefore they are inserted under this title; although the words of them do extend and the act of toleration supposes them to extend to all nonconformists in general. But the force of them as to protestant dissenters is taken away by that act. But no *papist* or *popish* recusant shall have any benefit by the act of toleration.

II. *Toleration of catholics by 31 G. 3. c. 32.*

It shall be lawful for persons professing the *Roman catholic* religion, to appear in any of the courts at *Westminster*, or at the general quarter sessions for the county city or place where he shall reside, and there in open court, between the hours of nine in the morning and two in the afternoon take make and subscribe the following declaration and oath; (viz.)

I A. B. do hereby declare, that I do profess the *Roman catholic* religion. Declaration.

I A. B. do sincerely promise and swear that I will be faithful and bear true allegiance to his majesty king George the third, and him will defend to the utmost of my power against all conspiracies and attempts whatsoever that shall be made against his person, crown, or dignity; and I will do my utmost endeavour to disclose and make known to his Majesty his heirs and successors all treasons and traitorous conspiracies which may be formed against him or them: And I do faithfully promise to maintain support and defend to the utmost of my power the succession of the Oath.

the crown ; which succession, by an act intituled An Act for the further limitation of the crown and better security of the rights and liberties of the subject, is and stands limited to the princess Sophia electress and duchess dowager of Hanover, and the heirs of her body, being protestants, hereby utterly renouncing and abjuring any obedience or allegiance unto any other persons claiming or pretending a right to the crown of these realms. And I do swear, that I do reject and desert, as an unchristian and impious position, that it is lawful to murder or destroy any persons or persons whatsoever, for or under pretence of their being heretics or infidels ; and also that unchristian and impious principle, that faith is not to be kept with heretics or infidels. And I do further declare that it is not an article of my faith, and that I do renounce reject and abjure the opinion, that princes excommunicated by the pope and council, or any authority of the see of Rome, or by any authority whatsoever, may be deposed or murdered by their subjects, or any person whatsoever. And I do promise that I will not hold maintain or abet any such opinion, or any other opinion contrary to what is expressed in this declaration. And I do declare that I do not believe that the pope of Rome, or any other foreign prince, prelate, state, or potentate, hath or ought to have any temporal or civil jurisdiction, power, superiority, or pre-eminence, directly or indirectly, within this realm. And I do solemnly, in the presence of God, profess testify and declare, that I do make this declaration and every part thereof in the plain and ordinary sense of the words of this oath, without any evasion, equivocation, or mental reservation whatever ; and without any dispensation already granted by the pope, or any authority of the see of Rome, or any person whatever ; and without thinking that I am or can be acquitted before God or man, or absolved of this declaration, or any part thereof, although the pope or any other person or authority whatsoever shall dispense with or annul the same, or declare that it was null or void ;

Which said declaration and oath shall be subscribed by such person with his name at full length, if he can write, and if not, with his mark, and his name shall be written by the officer, adding his title addition and place of abode, which shall there remain of record : And such officer shall make subscribe and deliver a certificate of such declaration and oath having been duly made and taken, if demanded, for which he shall have 2s. ; which certificate shall be competent evidence, unless falsified. *f. 1.*

And such officer shall yearly, on or before the 25th of December, transmit to the privy council lists of the persons, with their titles additions and places of abode, who shall have made and subscribed such declaration and oath in the preceding year. *f. 2.*

And

Certificate
thereof to be
given.

Lists to be sent
to the privy
council.

And no *Roman catholic*, who shall have taken and subscribed the said oath as aforesaid, shall be convicted upon any of the acts following, (*viz.*) 1 *El. c. 2.* 23 *El. c. 1.* 29 *El. c. 6.* 35 *El. c. 2.* 1 *J. I. c. 4.* 3 *J. I. c. 4.* 3 *J. I. c. 5.* and 7 *J. I. c. 6.* or any other statute or law of this realm; or in any ecclesiastical court, for not resorting to church, or having servants who shall not resort to church, or other place of common prayer. *f. 3.*

Not required to resort to church.

And by 43 *G. 3. c. 30.* *Roman catholics* taking and subscribing the declaration and oath contained in the 31 *G. 3. c. 32.* shall be entitled to all the benefits of the 18 *G. 3. c. 60.* (*post.*) to every purpose as if they had taken the oath thereby prescribed.

And whereas by 23 *El. c. 2.* 27 *El. c. 2.* 35 *El. c. 2.* 2 *J. I. c. 4.* 3 *J. I. c. 5.* 3 *C. 1. c. 2.* 25 *C. 2. c. 2.* papists are made subject to several punishments, penalties, and disabilities, it is enacted that no person who shall take and subscribe the said oath in manner aforesaid shall be prosecuted or convicted for being a papist, or reputed papist, or for professing or being educated in the popish religion, or for hearing or saying mass, or for being a priest or deacon, or entering or belonging to any ecclesiastical order or community of the church of *Rome*, or for being present at or performing or observing any rite ceremony practice or observance of the popish religion, or maintaining or assisting others therein. *f. 4.*

Not prosecutable for being a papist.

Provided always, that no place of congregation or assembly for religious worship shall be allowed, until the place of such meeting shall be certified to the sessions of the county or place in which the same shall be held, and be there recorded; and the clerk of the peace shall give a certificate thereof, if demanded, for which he shall have 6d. And no minister or other person shall officiate in any such place of meeting until his name and description as a priest or minister shall have been recorded at the sessions, for which shall be paid 6d. and a certificate thereof shall be granted, if demanded, for which shall be paid 2s. And no priest or minister who shall officiate in any such meeting not so recorded as aforesaid shall be deemed to be within the benefit of this act for any purpose whatsoever. *f. 5.*

Places of meeting to be certified to the sessions,

and the minister's name to be recorded there.

Provided that if any such place of assembly shall have the doors locked, barred, or bolted, during the time of meeting, all persons who shall come to or be at such meeting shall receive no benefit from this act, notwithstanding his having taken such oath as aforesaid, but shall be liable to the same pains and penalties as if this act had not been made. *f. 6.*

Places of assembly not to be locked.

If any *Roman catholic* shall hereafter be appointed high or petty constable, churchwarden, overseer of the poor, or

May be a constable, &c. or appoint a deputy.

any other parochial or ward office, and shall scruple to take upon him any of the said offices, he may execute the same by a sufficient deputy, to be approved of in like manner as other persons. *f. 7.*

Ministers exempted from serving on juries, &c.

Every minister of any *Roman* catholic congregation who shall take and subscribe the said oath in manner aforesaid shall be exempt from serving on juries, and from the office of churchwarden, overseer, or other parochial or ward office, or other office in any hundred of any shire, city, town, parish, division, or wapentake. *f. 8.*

Laws for frequenting divine service, to continue in force.

But all laws made for frequenting divine service shall continue in force, unless where persons shall come to some religious worship permitted by this act, or an act of 1 *W. & M.* for exempting dissenters. *f. 9.*

Disturbing congregations, or mistreating priests.

And if any person shall wilfully and on purpose maliciously and contemptuously come into any congregation or assembly of religious worship permitted by this act, and disturb the same; or misuse any priest, minister, preacher, or teacher therein, he shall, on proof by two witnesses, before one justice, find two sureties of the peace to be bound by recognizance in 50*l.* and in default thereof, shall be committed to prison till the next sessions, and on conviction of such offence at the sessions, shall forfeit 2*cl.* to the king. *f. 10.*

This act not to extend to popish ecclesiastics in certain cases.

Provided that no benefit herein contained shall extend to any *Roman* catholic ecclesiastic permitted by this act, who shall officiate in any congregation, or assembly hereby permitted, with a steeple and bell, or at any funeral in any church or church yard; or who shall exercise any of the rites or ceremonies of his religion; or wear the habits of his order, save within some place of congregation, or assembly for religious worship permitted by this act; or in any private house where there shall not be more than five persons assembled besides those of the household; or who shall not previously to his so exercising his function have taken the oath of allegiance, abjuration, and declaration hereby appointed, in manner aforesaid. *f. 11.*

Not to exempt papists from paying tithes, &c.

But nothing herein shall exempt any *Roman* catholic from paying tithes or other parochial duties, or any other duties to the church or minister; or to repeal any part of 26 *G. 2. c. 33.* "for preventing clandestine marriages," or any parts of any statutes concerning marriages; or to give any ease or benefit to any person who shall, by preaching, teaching, or writing, deny or gainsay the oath and declaration aforesaid, or the doctrines therein contained, or any of them; or to repeal or affect any law concerning the right succession to or limitation of the crown. *f. 12.*

May teach youth in certain cases.

And no *Roman* catholic, who shall take and subscribe the said oath of allegiance abjuration and declaration as aforesaid,

shall be prosecuted for teaching youth as a tutor or schoolmaster; but he shall not hold any mastership of any college, or school of royal foundation, or of any other endowed college or school for the education of youth; nor shall keep a school in either of the universities; nor shall receive into his school for education the children of any protestant father; nor shall teach any school until his name shall be entered at the sessions in manner aforesaid, as a *Roman catholic schoolmaster*; and no person offending in the premises shall receive any benefit from this act. *f. 13, 14, 15, 16.*

Provided also, that nothing herein shall make it lawful to found, endow, or establish, any religious order or society of persons bound by monastic or religious vows; or any school, academy, or college by any *Roman catholic*; and that all uses, trusts, and dispositions, whether of real or personal property, before deemed to be unlawful, shall continue to be so deemed. *f. 17.*

Not to found any religious order.

No person shall be summoned to take the oath required by *1 W. & M. sess. 1. c. 8.* or the declaration required by *25 G. 2. c. 2.* Nor shall the *1 W. & M. sess. 1. c. 9.* for removing papists from *London* and *Westminster* extend to *Roman catholics* who shall have taken and subscribed the oath, &c. herein appointed. *f. 18, 19.*

Not required to take certain oaths.

No peer who shall have taken and subscribed the said oath, &c. in manner aforesaid, shall be liable to be prosecuted under *30 C. 2. stat. 2. f. 5. f. 20.*

Peers.

And the *1 G. 1. sess. 2. c. 55.* and *3 G. 3. c. 18.* requiring papists to register their names and real estates are repealed; and all deeds and wills of papists shall, after *24th June 1791*, be good as if the said acts had never been made. *f. 21.*

1 G. 1. sess. 2. c. 55. *3 G. 3. c. 18.* repealed.

And whereas by *7 & 8 W. c. 4.* and *1 G. 1. stat. 2. c. 13.* every person acting as a counsellor at law, barrister, attorney, solicitor, clerk, or notary, not having taken the oaths and declaration therein prescribed, should be liable to certain penalties, it is enacted that these oaths and declarations shall be no longer required; but the oath and declaration herein appointed shall be taken in lieu thereof, in manner aforesaid. *f. 22.*

May act as counsellors, &c.

III. *Popish supremacy opposed and abolished.*

By the statute of the *27 Ed. 3. f. 1. c. 1.* which is called the statute of *provisors*, persons suing in a foreign realm, or impeaching judgment given in the king's court, shall incur a *præmunire*; that is, shall have a day given to appear in person to answer to the contempt, and if they come not they shall be out of the king's protection, their lands and goods shall be forfeited, and their bodies imprisoned and ransomed at the king's will.

Præmunire, what.

Bringing summons or excommunication.

If any bring into the realm a summons or excommunication against any one executing the statute of provisors, he shall suffer pain of life and member. 13 R. 2. *ft.* 2. *c.* 3.

Maintaining the authority of the see of Rome.

By the 5 *El.* *c.* 1. If any person shall maintain the authority of the see of Rome in this realm, he shall incur a *præmunire* for the first offence, and for the second shall be guilty of high treason. Prosecution to be within a year. And the justice in sessions may enquire thereof, and shall certify the same into the king's bench, *f.* 2, 3, 4. 10, 11.

Abolving or withdrawing subjects.

And if any person shall put in practice to absolve or withdraw any subjects from their allegiance, or if any person shall be willingly so absolved or withdrawn; he, his aiders and maintainers, shall be guilty of high treason. The trial to be at the assizes, or in the king's bench. 3 *J.* *c.* 4. *f.* 22, 23, 25.

IV. Concerning the pope's presentation to benefices.

Disturbing persons collated by the king.

No person by authority from the court of Rome shall disturb any person of the holy church, presented or collated by the king or his subjects; on pain of fine and imprisonment. 25 *Ed.* 3. *ft.* 6.

Taking a benefice from an alien.

None shall take any benefice of an alien, or convey money to him for the farm thereof; on pain of incurring a *præmunire*, 13 R. 2. *c.* 3.

No alien to enjoy a benefice.

No alien shall purchase or occupy a benefice in England; on pain of a *præmunire*. 7 R. 2. *c.* 12.

Going out of the realm to procure a benefice.

He that shall go out of the realm, to procure a benefice, shall be out of the king's protection; and the same shall be void. 12 R. 2. *c.* 15.

Accepting a benefice from the pope.

If any person shall accept a benefice from the pope, he shall be banished for ever, and his lands and goods forfeited. 13 R. 2. *ft.* 2. *c.* 2.

No provision of a benefice not vacant, made by the pope, and licensed by the king, shall be available; but persons endeavouring to exclude the incumbent thereby shall incur a *præmunire*. 7 H. 4. *c.* 8. 3 H. 5. *ft.* 2. *c.* 4.

V. Bringing bulls and other instruments from Rome.

Bringing bulls from Rome.

By the statute of the 16 R. 2. *c.* 5. (which is the famous statute called the statute of *præmunire*) If any person shall purchase, or bring into the realm, any bulls or instruments from Rome, or elsewhere, he shall incur a *præmunire*; that is to say, he shall be put out of the king's protection; and his lands and goods shall be forfeited to the king; and he shall be attached by his body, if he may be found, and brought before the king and his council, there to answer; or else process

process shall be awarded against him by *præmunire facias* (so called from those words in the writ.)

But by a subsequent statute, if any person shall get or publish any bull or instrument from *Rome*, he shall be guilty of high treason. And his aiders and comforters shall incur a *præmunire*. And concealing the same shall be misprision of high treason. 13 *El. c. 2. f. 3, 4, 5.* And the justices of the peace may enquire thereof, within a year and a day. 23 *El. c. 1. f. 8.*

VI. *Popish books and relics.*

If any person shall have in his custody any books called antiphoners, missals, grailes, processionals, manuals, legends, pies, portuassess, primers, in *Latin* and *English* (except those set out by *K. H. 8.*), couchers, journals, ordinals, or other books for the service of the church, not set forth by the king; he shall forfeit for the first offence 20s., for the second 4l., and for the third shall be imprisoned at the king's will. And the justices of the peace in their general sessions may hear and determine the same. 3 & 4 *Ed. 6. c. 10. f. 1, 2, 4, 5.*

No person shall bring from beyond the seas, nor shall print, sell, or buy, any popish primers, ladies psalters, manuals, rosaries, popish catechisms, missals, breviaries, portals, legends and lives of saints, concerning superstitious matter, printed or written in any language whatsoever; nor any other superstitious book printed or written in *English*, on pain of 40s., one third to the king, one third to him who shall sue in any court of record, and one third to the poor of the parish where such books shall be found; and the books to be burned. 37. *c. 5. f. 25.*

If any person shall bring into the realm any agnus dei, crosses, pictures, beads, or such like vain and superstitious things, from the bishop of *Rome*, or any authorized by him to consecrate the same, and offer them to any person to be worn or used; both the bringer and receiver shall incur a *præmunire*: but if the receiver shall in one day's time deliver the same to a justice of the peace, or if such person to whom the same is offered shall carry the bringer before the next justice, or (if he cannot) shall disclose the offender's name and place of abode or resort to the bishop, or to a justice of the peace, he shall not incur such *præmunire*. And in such case the justice in 14 days shall signify the same to one of the privy council, on pain of incurring a *præmunire*. 13 *El. c. 2. f. 7, 8, 10.*

And two justices of the peace (and mayors and other chief officers in corporations) may search the houses and lodgings of every popish recusant convict, or of every person whose wife

Persons having popish books in their custody.

Or bringing into the realm, printing, or selling the same.

Popish houses may be searched.

wife is a popish recusant convict, for popish books and relics of popery: and if any altar, pix, beads, pictures, or such like popish relics, or any popish book, shall be found in his custody, as in the opinion of the said justices, mayor, or other chief officer, shall be thought unmeet for such recusant to have or use, the same shall be presently defaced and burnt, if it be meet to be burned; and if it be a crucifix, or other reliet of any price, the same to be defaced at the sessions, and returned to the owner. 3 J. c. 5. f. 26.

VII. *Papists summoned to take the oaths.*

Refusing to take the oaths.

By the toleration act, if any person being required by a justice of the peace shall refuse to take the oaths of allegiance and supremacy, and to make and subscribe the declaration against popery of the 30 C. 2., he shall be committed by the said justice to prison; and, at the next sessions, if he shall again refuse to make and subscribe the said declaration, he shall be deemed and suffer as a popish recusant convict. f. 12.

Two justices may summons suspected persons.

And by the 1 G. 2. c. 13. Two justices may summon any person whom they shall suspect to be disaffected, by writing under their hands and seals, to appear before them at a time prefixed, to take the oaths of allegiance, supremacy, and abjuration, which summons shall be served on such person, or left at his dwelling house, or usual place of abode, with one of the family there; and if such person shall neglect or refuse to appear, then, on due proof made upon oath of serving the said summons, they shall certify the same to the next sessions, to be there recorded: And if such person shall neglect or refuse to appear and take the oaths at the said sessions, (his name being publicly read at the first meeting of the said sessions) he shall be taken and adjudged a popish recusant convict. And the same shall be from thence certified by the clerk of the peace into the chancery or king's bench, to be there recorded. f. 10, 11.

VIII. *Foreign education of papists.*

Contributing to seminaries abroad.

If any person shall contribute or send over sea any money or other relief to any seminary abroad, he shall incur a *præmunire*. 27 El. c. 2. f. 6.

Or not returning from them.

They who be in seminaries abroad shall return in six months after proclamation, and conform in two days before the bishop, or two justices of the peace; otherwise if they return at all, without submission, they shall be guilty of high treason. 27 El. c. 2. f. 5.

Popish education abroad.

If any person shall go, or send any person, beyond the seas to be popishly educated, who shall be there so instructed, or shall

shall lend any money or other thing for that purpose; he shall, on conviction before the judges of the king's bench or of assize, be disabled to be plaintiff in any action, or to be committee of any ward, or executor, or administrator, or capable of any legacy or deed of gift, or to bear any office; and shall forfeit his goods, and shall forfeit his lands during life. But if he shall conform in six months after his return, he shall be discharged. 3 C. c. 2. 1 J. c. 4. f. 6, 7.

Children, not being soldiers, mariners, merchants, or their apprentices or factors, departing the realm, on account of education, or otherwise, without license from the king, or six of the privy council, shall take no benefit by any gift, conveyance, descent, devise, or otherwise, of any lands or goods, until they conform. 3 J. c. 5. f. 16. And persons sending any such child over seas, without license, shall forfeit 100l. to him who shall sue in any court of record. 3 J. c. 5. f. 16. 11 & 12 W. c. 4. f. 6.

No woman, or child under 21, except sailors or factors, shall pass over sea without license of the king and council; on pain that the officer of the port shall forfeit his office and his goods, the owner of the ship his vessel, and the master his goods, and be imprisoned 12 months. 1 J. c. 4. f. 8.

Women and children passing over sea.

No person, not bred up by his parents in the popish religion, shall breed up or suffer his children to be bred up in the popish religion; on pain of being disabled to bear any office, until they conform. 25 C. 2. c. 2. f. 8.

Persons not bred up in the popish religion.

IX. *Perverting others, or being perverted to popery.*

If any person shall put in practice to reconcile any subjects to popery, or if any person shall be willingly so reconciled; he, his aiders and maintainers, shall be guilty of high treason. The trial to be at the assizes, or in the king's bench. 3 J. c. 4. f. 22, 23, 25.

X. *Jesuits and popish priests.*

No jesuit or popish priest shall come into or be in the realm, on pain of high treason; unless he conform. 27 El. c. 2. f. 2, 3, 10.

Being in the realm.

And if any person shall knowingly receive or relieve any such, he shall be guilty of felony without benefit of clergy. 27 El. c. 2. f. 4.

Receiving or relieving them.

If any person knowing such jesuit or priest to be in the realm shall not in 12 days discover the same to a justice of the peace or other higher officer, he shall be fined and imprisoned at the king's pleasure. And if such justice or other officer shall not in 28 days give information thereof to one of

Not discovering them.

of the privy council, he shall forfeit 200 marks. 27 *El. c. 2. f. 11.*

Refusing to answer.

A suspected jesuit or popish priest, being lawfully examined, and refusing to answer whether he be a jesuit or popish priest, shall be imprisoned till he make direct and true answer. 35 *El. c. 2. f. 11.*

Discovering them.

And the person who shall first discover to any justice of the peace any person who shall entertain or relieve any jesuit, seminary, or popish priest, within three days after the offence, so that by reason of such discovery any offender shall be taken and convicted; such persons shall not only be freed from any penalty for such offence, if himself be an offender, therein, but shall also have the third part of the forfeitures if they do not exceed 150*l.* and if they do exceed 150*l.*, then he shall have 50*l.* 3 *J. c. 5. f. 1.*

Contributing to their relief.

If any person shall contribute, or send over sea, any money or other relief to any jesuit or popish priest; he shall incur a *præmunire*. 27 *El. c. 2. f. 6.*

XI. *Saying and hearing mass.*

Saying mass.

If any person shall say or sing mass, he shall forfeit 200 marks, and be imprisoned for a year, and till paid;

Hearing mass.

And if any person shall wilfully hear mass, he shall forfeit 100 marks, and be imprisoned for a year;

Penalty.

The forfeitures to be one third to the king, one third to the poor, and one third to him who shall sue in any court of record. If not paid in three months after judgment, he shall be committed till he pays or conforms. And the sessions may determine the same. 23 *El. c. 1. f. 4, 9, 10, 11.*

Reward for discovery.

And the person who shall first discover to any justice of the peace any mass to have been said, and the persons that were present thereat, and the priest that said the same, or any of them, within three days after the offence, by reason of which discovery any offender is taken and convicted; such person shall not only be freed from any penalty for such offence, if himself be an offender therein, but shall also have the third part of the forfeitures, if they do not exceed 150*l.* and if they do exceed 150*l.* then he shall have 50*l.*; and after conviction of the offender, he shall have a certificate from the judges or justices of the peace, before whom the conviction shall be, directed to the sheriff or person who shall seize the goods, or levy the forfeiture, commanding him to pay the same. 3 *J. c. 5. f. 1.*

Fraudulent conveyances.

Conveyances made by recusants, to evade the penalties for saying or hearing mass, shall be void. 29 *El. c. 6. f. 1.*

XII. *Penalty*

tant dissenters, who resort to some place of religious worship allowed by the act of toleration. 1 *W. c.* 18.

The churchwardens and constables shall (on pain of 20*l.*) present at the quarter sessions once a year the monthly absence from church of all recusants, and the names and ages of their children above nine years of age, and the names of their servants. And the presentments shall be entered by the clerk of the peace without fee, on pain of 40*s.* And if the party presented shall be indicted and convicted, such churchwarden or constable shall have a reward of 40*s.* to be levied of the recusant's goods by warrant of the justices in sessions. 3 *J. c.* 4. *f.* 4, 5, 6.

Churchwardens
&c. to present
recusants.

XIII. *Inrolling deeds and wills.*

No manors, lands, tenements, or hereditaments, or any interest therein, or rent or profit thereof, shall pass, alter, or change from any papist, or person professing the popish religion, by any deed or will, except such deed within six months after date and such will within six months after the death of the testator be enrolled in one of the courts of record at *Westminster*, or within the county where they lie, by the *custos rotulorum* and two justices of the peace, and the clerk or deputy clerk of the peace, or two of them at least, whereof the clerk of the peace, or his deputy to be one. 21 *G. 3. c.* 51.

Deeds and wills
to be enrolled.

But leases made by papists to protestants, whereon the full yearly value, or the ancient or most accustomed yearly rent or more shall be reserved, need not to be enrolled. 10 *G. c.* 4. *f.* 19.

There is generally a clause of indemnity in some act of parliament every two or three years: provided such deeds and wills be enrolled on or before a time in such act limited.

Also no purchase made for full and valuable consideration, by and for the sole benefit of any protestant, shall be avoided for or by reason that any deed or will, through which the title is derived, hath not been inrolled; so as no advantage was taken thereof before the purchase, and so as no decree or judgment hath been obtained for want of such inrolment. 35 *G. 3. c.* 99. *f.* 3.

Provided also, that nothing herein shall extend to make good any grant, lease, or mortgage, of the advowson or right of presentation, collation, nomination, or donation, of and to any benefice, prebend, or ecclesiastical living, school, hospital, or donative, or any avoidance thereof, made by any papist, or person professing the popish religion, in trust by or for any such person, whether such trust hath been declared by writing or not. *Id.* *f.* 4.

XIV. *Double*

XIV. *Double taxes.*

By the yearly land tax acts papists and reputed papists, being of 18 years of age, who shall not have taken the oaths of allegiance and supremacy, shall pay double land tax.

By 10 G. 3. c. 6. f. 113. Estates doubly taxed, coming to protestants, are to be discharged.

XV. *Papists not to come to court.*

No popish recusant convict shall come into the court or house where the king or his heir apparent shall be (unless commanded by the king or council), on pain of 100l. half to the king, and half to him who shall discover and sue for the same in any court of record. 3 J. c. 5. f. 2.

And if any member of either house of parliament, not having taken the oaths of allegiance and supremacy, and made and subscribed the declaration against popery, shall come into the king's presence, or the court or house where he is (without license from six of the privy council), he shall suffer as a popish recusant convict, and shall be disabled to hold any office, or to vote in either house of parliament, or to be plaintiff, guardian, executor, administrator, or to take any legacy or gift, and shall forfeit 500l. to him who shall sue. 30 C. 2. ff. 2. c. 1.

XVI. *Not to come within ten miles of London.*

All popish recusants, who shall come dwell or remain within the city of *London*, or within ten miles thereof, who shall be indicted or convicted of such recusancy, or who shall forbear going to church to hear divine service for three months, shall, within ten days after such indictment or conviction, depart from the said city and ten miles compass of the same; and shall also within the said time deliver up their names to the lord mayor, if they dwell within the city or liberties thereof; and if they dwell in any other county within ten miles of the city, they shall deliver up their names to the next justice; on pain of 100l. half to the king, and half to him who shall sue. 3 J. c. 5. f. 4.

And for the better discovering of papists within ten miles of *London*, every justice in the neighbouring counties shall cause to be arrested and brought before him such person within the said limits, not being a merchant foreigner, as are or are reputed to be papists (except ambassadors servants), and tender to him the declaration against popery of the 30 C. 2. which if they shall refuse to make and subscribe, and afterwards continue within ten miles of *London*, they shall suffer as

as a popish recusant convict. The justice to certify such subscription or refusal, into the king's bench or to the next quarter sessions. 1 W. c. 9.

XVII. *Papists confined to their habitation.*

Every person above 16 years of age, being a popish recusant, and having any certain place of abode, who being convicted for not repairing to some church, chapel, or usual place of common prayer, to hear divine service there, but forbearing the same contrary to law, shall within forty days next after the conviction (if he be within the realm, and not hindered by imprisonment, by command of the king or council, or by sickness, and in such case in 20 days after the removal of such impediment) repair to his usual dwelling, and shall not remove above five miles from thence, unless he be licensed as is herein-after directed, on pain of forfeiting his goods, and also to the king his lands during life, unless they be customary or copyhold, and then to the lord of the manor. 35 El. c. 2. f. 3, 5.

Not to remove above five miles from their dwelling houses.

And it seemeth that these shall be computed according to the *English* manner, allowing 1760 yards to a mile, and that the same shall be reckoned not by straight lines, as a bird or arrow may fly; but according to the nearest and most usual way. 1 Haw. c. 12. f. 15.

Having repaired to their dwelling, they shall within 20 days notify their coming, and present themselves, and deliver their true names in writing to the minister of the parish, and to the constable, and the minister shall enter the same in a book. 35 El. c. 2. f. 6.

To deliver their names to the ministers, &c.

And, after, the minister and constable shall certify the same in writing to the next sessions; and the clerk of the peace shall enter the same in the rolls of the sessions. 35 El. c. 2. f. 7.

To be certified to the sessions.

If such recusant (not being a feme covert) have not lands of 20 marks a year, or goods worth above 40l., and shall not conform in three months, being thereto required by the bishop, or a justice of the peace, or the minister; he shall abjure the realm before two justices of the peace, or the coroner; who shall enter the same of record, and certify the same at the next assizes. And if he shall refuse to abjure, or not depart, or return; he shall be guilty of felony without benefit of clergy. 35 El. c. 2. f. 8, 9, 10.

Papists not conforming to abjure the realm.

Abjure.] The form whereof, according to the ancient books, is this; "This hear you, sir coroner, that I A. O. of _____ in the county of _____ am a popish recusant, and in contempt of the laws and statutes of *England*, I have and do refuse to come to their church: I do, therefore, accord-

ing to the intent and meaning of the statute made in the 35th year of queen *Elizabeth*, late queen of this realm of *England*, abjure the realm of *England*. And I shall haste me towards the port of *P.* which you have given and assigned to me, and that I shall not go out of the highway, leading thither, nor return back again; and if I do, I will that I be taken as a felon of the king. And that at *P.* I will diligently seek for passage, and will tarry there but one flood and ebb, if I can have passage; and unless I can have it in such place, I will go every day into the sea up to my knees, assaying to pass over. So help me God and his doom." *Stat. 116. Mir. b. 1. Offic. Cor. 49.*

But if such person restrained shall be urged by process, or be bound to appear in any of the king's courts, or be sent for by the council, or be bound to render his body to the sheriff on proclamation, he shall incur no penalty for removing for such purpose. *35 El. c. 2. s. 13, 14.*

May be licensed
to remove.

Also, popish recusants confined to their habitations by the *35 El.* may be licensed to remove.

(1) By the king.

(2) By three or more of the privy council in writing under their hands; who may give license to such recusant to travel out of the compass of five miles for such time as shall be contained in his license, for his travelling, attending, and returning, and without any other cause to be expressed in the license.

(3) If such recusant shall have necessary occasion or business; then, upon license in writing under the hands and seals of four of the next justices of the county or place with the assent in writing of the bishop or of the lieutenant or a deputy lieutenant of the county residing therein, under their hands and seals; in which license shall be specified both the cause of the license, and the time how long the party licensed shall be absent in travelling, attending, and returning; In such case, the person so licensed may travel about such his necessary business, and for such time as shall be comprised in the license; he first taking oath before the said four justices or any of them that he hath truly informed them of the cause of his journey, and that he shall not make any causeless stay. And such person departing above five miles, not having such license, and not having taken such oath, shall incur the penalty of the *35 El.* above-mentioned. *3 J. c. 5. s. 7.*

XVIII. Armour.

Papists refusing
to make declaration,
not to
have arms, &c.
in their pos-
session

Any two justices, who shall know or suspect or shall be informed that any person is or is suspected to be a papist, may and shall tender to him the declaration in the act of

30 C. 2. and if he shall not appear, after notice by warrant under hand and seal given to him, or left at his usual place of abode, or shall not make and subscribe the declaration, he shall be disabled to have or keep in his house or elsewhere or in the possession of any other to his use, any arms, gunpowder, or ammunition, except such weapons as shall be allowed by the sessions for the defence of his house or person. And any two justices may by warrant authorize in the day time any person, with the constable's assistance, to search such person's house for the same, and seize them for the use of the king. And the said justices shall deliver the same in open court at the next sessions for the use aforesaid; where also they shall certify the name and place of abode of every person so subscribing, or not subscribing. 1 W. c. 15. f. 2, 3, 4.

Notwithstanding the taking away such armour, gunpowder, and ammunition, the said popish recusant shall be charged with the providing and maintaining of horse and other armour and ammunition, as other subjects, according to their several abilities. 3 J. c. 5. f. 29.

Every such person, not discovering and delivering them up to some justice in ten days after default in not appearing, or not subscribing as aforesaid, or hindering the seizure, shall be committed to gaol by any two justices for three months, and shall forfeit the arms, and pay treble value of them to the king, to be appraised by the justices at the next session. 1 W. c. 15. f. 5.

Every other person who shall conceal, or knowing thereof, not discover to a justice such arms or ammunition, or shall hinder the seizing thereof, shall be committed to gaol by two justices for three months, and shall forfeit to the king the treble value of the arms. 1 W. c. 15. f. 6.

Concealing arms.

And every person who shall discover such arms or ammunition, so as they shall be seized, shall have a reward equal to the value thereof ordered by the sessions out of the goods of the offender, to be levied by distress. 1 W. c. 15. f. 7.

Reward for discovery thereof.

XIX. Horses.

Every papist making default in not appearing, or not subscribing, (as in the former section concerning armour,) shall not have or keep in his possession, or in the possession of any other to his use, or at his disposition, any horse above the value of 5l. to be sold. And two justices may authorize any person, with the constable's assistance, to seize all such horses for the king's use. 1 W. c. 15. f. 9.

Not to keep a horse above 5l. value.

And if any person shall conceal, or assist in concealing, any such horse, he shall be committed by warrant of two justices to prison for three months, and shall forfeit to the king treble the value of such horse. 1 W. c. 15. f. 10.

Concealing the same.

XX. *Papists shall not present to benefices.*

Not to present
to benefices.

A popish recusant convict shall be disabled to present, or grant any avoidance, to any ecclesiastical living, or nominate to any free school, hospital, or donative. 3 *J. c. 5. f. 18.*

And whereas by the 1 *W. c. 15.* any two justices who shall know or suspect, or shall be informed, that any person is or is suspected to be a papist, shall tender to him the declaration of the 30 *C. 2.*, and if he shall not appear before the said justices, on notice to him given by warrant by the said justices, or left at his usual place of abode, or if he shall refuse to make and subscribe the declaration, they shall certify his name and place of abode at the next sessions to be there recorded by the clerk of the peace, it is enacted by the 1 *W. c. 26. f. 2.* that every person so recorded shall, from the time of such record, be disabled to present or nominate to any benefice, free school, hospital, or donative, as fully as if he were a popish recusant convict.

Where any person shall be possessed of any right of presentation or nomination as aforesaid, *in trust* for any papist or popish recusant, who shall be convicted or disabled by the 3 *J. c. 5.* or by the 1 *W. c. 26.*, such trustee shall be disabled to present or nominate, or to grant any avoidance thereof. 1 *W. c. 26. f. 3.*

It is further enacted that every papist, or person making profession of the popish religion, (that is, whether convicted by either of the former acts or not) and every child not being a protestant, under the age of 21, of every such papist or person professing the popish religion, and every mortgagee, trustee, or person any ways intrusted directly or indirectly by or for any such papist or person professing the popish religion, or such child as aforesaid, whether such trust be declared by writing or not, shall be disabled to present or nominate. 12 *An. st. 2. c. 14. f. 1.*

And the chancellor and scholars of the university of Oxford shall present and nominate to the same, in the counties of *Oxford, Kent, Middlesex, Sussex, Surry, Hampshire, Berkshire, Buckinghamshire, Gloucestershire, Worcestershire, Staffordshire, Warwickshire, Wiltshire, Somersetshire, Devonshire, Cornwall, Dorsetshire, Herefordshire, Northamptonshire, Pembrokehire, Caermarthenhire, Brecknockshire, Monmouthshire, Cardiganhire, Montgomeryshire*, the city of London, and other cities and towns within the said counties;

And the chancellor and scholars of the university of Cambridge shall present and nominate in the counties of *Essex, Hertfordshire, Bedfordshire, Cambridgehire, Huntingdonshire, Suffolk, Norfolk, Lincolnshire, Rutlandshire, Leicestershire, Derbyshire, Nottinghamshire, Shropshire, Cheshire, Lancashire, York-*
shire,

Counties in
which the uni-
versity of Oxford
are to present.

Counties in
which the uni-
versity of Cam-
bridge are to
present.

shire, Durham, Northumberland, Cumberland, Westmorland, Radnorshire, Denbighshire, Flintshire, Carnarvonshire, Angleseyshire, Merionethshire, Glamorganshire, and the cities and towns within the said counties. 3 J. c. 5. f. 19, 20.

If any trustee, mortgagee, or grantee, of an avoidance, shall present or nominate to any such living, free school, or hospital, whereof the trust shall be for any recusant convict, or disabled, without giving notice in writing to the university, in three months after the avoidance shall happen, he shall forfeit 500l. to the university. 1 W. c. 26. f. 4.

But the chancellor and scholars shall not present to any such ecclesiastical living any person who shall then have any other benefice with cure of souls; nor shall the person presented be absent from the same above 60 days in any one year. 1 W. c. 26. f. 5. 6.

And every grant of an ecclesiastical living, school, hospital, or donative, by any papist or trustee for him, shall be void, unless made *bonâ fide* for a full and valuable consideration to a protestant purchaser. And also every *devise* thereof, with intent to secure the benefit thereof to the heirs or family of such papists, shall be void. 11 G. 2. c. 17. f. 5.

XXI. *Disabled as to offices, law, physic.*

No recusant convict shall practise the common law, as a counsellor, clerk, attorney, or solicitor; nor shall practise the civil law, as advocate or proctor; nor practise physic, nor be an apothecary; nor shall be a judge, minister, clerk, or steward of or in any court, or keep any court, nor shall be register or town clerk, or other minister or officer in any court; nor shall bear any office or charge, as captain, lieutenant, corporal, serjeant, ancient-bearer, or other officer, in camp, troop, band, or company of soldiers; nor shall be captain, master, governor, or bear any office or charge of or in any ship, castle, or fortress; but be utterly disabled for the same; and every person offending herein shall forfeit 100l. half to the king, and half to him who shall sue. 3 J. c. 5. f. 8.

Popish recusant convicts disabled from practising law, physic, or being a military officer.

And no popish recusant convict, not any having a wife being a recusant convict, shall exercise any public office, unless such husband and his children above nine years old and his servants go to church and conform. 3 J. c. 5. f. 9.

XXII. *Not to be executor, administrator, or guardian.*

A popish recusant convict shall be disabled to be executor, administrator, or guardian: but the wardship shall go to the next of kin, not being a recusant, to whom the estate cannot lawfully descend. 3 J. c. 5. f. 22, 23.

Not to be executor or guardian.

XXIII. *Shall be deemed excommunicate.*To be deemed
excommunicate.

Every popish recusant convict shall stand and be reputed to all intents and purposes disabled, as a person excommunicated, and as if he had been so denounced by the laws of the realm. 3 J. c. 5. f. 11.

And on proceſs to the ſheriff for apprehending a popiſh recusant excommunicated, he may break open a houſe, or raiſe the power of the county. 3 J. c. 4. f. 35.

XXIV. *Popiſh baptiſm, marriage, and burial.*

Popiſh baptiſm.

Every popiſh recusant ſhall within one month next after the birth of any child cauſe it to be baptiz'd by a lawful miniſter in open church; or if it is infirm, to be baptiz'd by a lawful miniſter; on pain of 100l. one third to the king, one third to him who ſhall ſue, and one third to the poor. 3 J. c. 5. f. 14.

Popiſh marriage.

By the 3 J. c. 5. Every man, being a popiſh recusant convict, who ſhall be married otherwiſe than in ſome open church or chapel, and otherwiſe than according to the orders of the church of *England*, by a miniſter lawfully authorized, ſhall be utterly diſabled and excluded to have any eſtate of freehold in the lands of his wiſe, as tenant by the courteſy of *England*; and if ſhe have no lands, he ſhall forfeit 100l. half to the king, and half to him who ſhall ſue. And every woman, being a popiſh recusant convict, who ſhall be married in other form than as aforeſaid, ſhall be utterly excluded and diſabled, not only to claim any dower or jointure, but alſo her widow's eſtate and frankbank in her huſband's cuſtomary lands, and diſabled to have any part of his goods. 3 J. c. 5. f. 13.

But by the 26 G. 2. c. 33. After March 25, 1754, if they ſhall be married any where in *England*, other than in a church or public chapel (unleſs by ſpecial liſenſe from the archbiſhop of *Canterbury*), or without publication of banns, or liſenſe, the marriage ſhall be void.

Popiſh burial.

If any popiſh recusant, not being excommunicate, ſhall be buried in any place, other than the church or church-yard, or not according to the eccleſiaſtical laws, the executors or adminiſtrators of every ſuch perſon ſo buried ſhall forfeit 20l. one third to the king, one third to the informer or him who ſhall ſue, and one third to the poor. 3 J. c. 5. f. 15.

XXV. *Heir of a popiſh recusant.*

If the heir of a popiſh recusant ſhall be under ſixteen at the death of ſuch recusant, and ſhall after ſuch age become recusant,

lant, he shall be charged with the penalties happening to him by reason of such his ancestor's recusancy, until such time as he shall conform. 1 J. c. 4. f. 3, 4.

XXVI. Protestant children of papists.

If any popish parent, in order to the compelling of his child, being a protestant, to change his religion, shall refuse to allow him a fitting maintenance, the lord chancellor may make order therein. 11 & 12 W. c. 4. f. 7.

XXVII. Recusant conforming.

A recusant conforming shall be discharged of the penalties which he might otherwise sustain in respect of his recusancy. Discharged from penalties, &c.
1 J. c. 4. f. 2.

And by the 11 G. 2. c. 17. Papists conforming to the protestant religion, and taking the oaths, and subscribing the declaration of the 30 G. 2. in the chancery, king's bench, or quarter sessions, (to be there recorded,) shall have their estates freed of the disabilities incurred before such conforming. f. 1. 2, 3, 4.

A recusant convicted having conformed shall at least once a year receive the sacrament in the parish church, on pain of forfeiting for the first year 20l. for the second 40l. and for every year after 60l.; half to the king, and half to him that shall sue in the courts at *Westminster*, or at the assizes or sessions. 3 J. c. 4. f. 2, 3. To receive the sacrament

And at the sessions where an indictment for such an offence is taken, the justices shall have power to make proclamation, by which it shall be commanded that the body of the offender shall be rendered to the sheriff, bailiff, or gaoler, before the next sessions: And if he shall not appear of record next sessions, then upon such default recorded, he shall stand convicted. f. 7. Power of the sessions.

No indictment or other proceeding shall be reversed for want of form, nor by any thing but by direct traverse to the point of not receiving the sacrament. f. 16.

But the husband shall not be charged with a penalty for the wife's offence in not receiving the sacrament; nor shall the wife be chargeable for not receiving during her marriage. f. 40. Husband not chargeable for his wife's offence

[NOTE, By the 11 & 12 W. c. 4. Further provisions were made against papists, which were as follow: viz.

(1) If any person shall apprehend any popish bishop, priest, or jesuit, and prosecute him till he be convicted of saying mass, or exercising any other part of the office or function of a popish bishop or priest, he shall receive 100l. reward.

(2) If any popish bishop, priest, or jesuit, shall say mass, or exercise any other part of the office or function of a popish bishop or priest (except in foreign ministers' houses); or if any papist, or person making profession of the popish religion, shall keep school or take upon himself the education or government or boarding of youth; he shall be adjudged to perpetual imprisonment. (3) If any person educated in the popish religion, or professing the same, shall not within six months after he shall be eighteen years of age take the oaths of allegiance and supremacy, and subscribe the declaration of the 30 C. 2. in the chancery, king's bench, or quarter sessions, he shall (in respect of himself, but not of his heirs,) be incapable to inherit or take (a) any lands by descent, devise, or limitation; but the next of kin, being a protestant, shall have the same. (4) And every papist, or person making profession of the popish religion, shall be disabled to purchase any lands, or profits out of the same, in his own name, or in the name of any other to his use, or in trust for him; but the same shall be void.—But by the 18 G. 3. c. 60. All these clauses are repealed; provided that nothing in this same act of 18 G. 3. shall extend to any person but such who shall within six calendar months after passing of the act, or of accruing of his title, being of the age of 21 years, or being of unsound mind, or in prison, or beyond the seas, then within six months after such disability removed, take and subscribe an oath in the words following],

Oath to be
taken.

I. A. B. do sincerely promise and swear that I will be faithful and bear true allegiance to his majesty king George the third, and him will defend to the utmost of my power against all conspiracies and attempts whatever that shall be made against his person, crown, or dignity. And I will do my utmost endeavour to disclose and make known to his majesty his heirs and successors all treasons and traitorous conspiracies which may be formed against him or them. And I do faithfully promise to maintain, support, and defend, to the utmost of my power, the succession of the crown in his majesty's family against any person or persons whatsoever; hereby utterly renouncing and abjuring any obedience or allegiance unto the person taking upon himself the style and title of Prince of Wales, in the life-time of his father, and who, since his death, is said to have assumed the style and title of King of Great Britain, by the name of Charles the third, and to any other person claiming or pretending a right to the crown of these

(a) In *Mallon d. Marsh v. Bringloe*, it was determined that a papist, who has not taken the oaths (being under an incapacity to hold lands under stat. 11 & 12 W. 3. c. 4.) may devise lands to a protestant. *Will. Rep.* 75.

realms. And I do swear that I do reject and detest, as an unchristian and impious position, that it is lawful to murder or destroy any person or persons whatsoever, for or under pretence of their being heretics; and also that unchristian and impious principle, that no faith is to be kept with heretics. I further declare that it is no article of my faith, and that I do renounce, reject, and abjure the opinion, that princes excommunicated by the pope and council, or by any authority of the see of Rome, or by any authority whatsoever, may be deposed or murdered by their subjects, or any person whatsoever. And I do declare that I do not believe that the pope of Rome, or any other foreign prince, prelate, state, or potentate, hath or ought to have any temporal or civil jurisdiction, power, superiority, or pre-eminence directly or indirectly within this realm. And I do solemnly in the presence of God profess, testify, and declare, that I do make this declaration and every part thereof in the plain and ordinary sense of the words of this oath; without any evasion, equivocation, or mental reservation whatever, and without any dispensation already granted by the pope, or any authority of the see of Rome, or any person whatever; and without thinking that I am or can be acquitted before God or man, or absolved of this declaration, or any part thereof, although the pope or any other persons or authority whatsoever shall dispense with or annul the same, or declare that it was null or void.

Which oath it shall be competent to the courts at *Westminster* or any general or quarter sessions to administer; of which a register shall be kept in like manner as for the oaths required from persons qualifying for offices. And provided also, that nothing herein shall extend to any popish bishop, priest, jesuit, or schoolmaster, who shall not have taken and subscribed the above oath before he shall have been apprehended, or any prosecution commenced against him.

And by 43 G. 3. c. 30. Roman catholics taking the oath and making the declaration by the 31 G. 3. c. 32. prescribed shall be entitled to all the benefices given by the 18 G. 3. c. 60. as fully as if they had taken the oath therein prescribed (a).

Note, The oaths of allegiance and supremacy above-mentioned, and the declaration against popery of the 30 C. 2. are inserted at length in the title *Oaths*.

Posse comitatus. See *Arrest*.

(a) But the learned editor of the last edition of *Co. Lit.* is of opinion that it is adviseable to take both the oaths. *Vid. Hargr. Co. Lit.* 391. n. 346. 2d. ed.

Post.**Sect. I. Post office, and rate of postage - Page 26**

[9 An. c. 10. f. 6. 12. 14. 17. 19. 30. 32. 40. 41. 44.—6 G. c. 21. f. 51.—4 G. 2. c. 33.—26 G. 2. c. 13. f. 6.—5 G. 3. c. 25. f. 9. 10. 11. 14. 19. 20. 21.—7 G. 3. c. 50. f. 31.—24 G. 3. c. 37. f. 2. f. 4. 5.—25 G. 3. c. 57. f. 1.—34 G. 3. c. 17. f. 1. 2.—35 G. 3. c. 53. f. 8. 9.—37 G. 3. c. 67.—39 G. 3. c. 76. f. 1. 2. 3. 9.—41 G. 3. c. 7. f. 2. 3. 4. 5. 6. 9. 10.—42 G. 3. c. 81. f. 1. 2. 3. 4. 5. 6.—45 G. 3. c. 11. f. 1. 2. 3. 4. 5. 8.—46 G. 3. c. 73.—46 G. 3. c. 92.—48 G. 3. c. 116.]

II. Exemption from postage and franking by members of parliament, &c. -**42**

[4 G. 3. c. 24. f. 5. 6. 8.—24 G. 3. f. 2. f. 7. 9.—35 G. 3. c. 53. f. 6. 7. 8.—42 G. 3. c. 63. f. 1. 2. 3. 4. 5. 8. 9. 10. 11. 12. 13. 14.—43 G. 3. c. 119. f. 19. 20.—44 G. 3. c. 84.—46 G. 3. c. 61.—46 G. 3. c. 142. f. 6.]

III. Duty on horses travelling post -**48**

[25 G. 3. c. 51.—28 G. 3. c. 57. f. 1. 2. 3. 4.—30 G. 3. c. 36. f. 1. 2. 3. 4. 5. 6.—37 G. 3. c. 16. f. 1.—42 G. 3. c. 100. f. 9. f. 12. 42.—44 G. 3. c. 98. f. 5. f. 12. 42.—44 G. 3. c. 98. f. 5.]

IV. Public stage coaches and carriages -**62**

[25 G. 3. c. 51. f. 4. 48. 49. 50. 51. 52. 61.—28 G. 3. c. 57. f. 1. 2. 3. 4.—30 G. 3. c. 36. f. 1. 2. 3. 4.—37 G. 3. c. 16. f. 1.—46 G. 3. c. 136.]

V. Farming the post horse and stage carriage duty -**67**

[27 G. 3. c. 26. f. 8. f. 13. 14. 15. 16. —42 G. 3. c. 52. f. 1. 2. 8.—48 G. 3. c. 98. f. 1. 2. 3.]

I. Post office, and rate of postage.**Postmaster's oath.**

NO person shall be capable of exercising any employment relating to the post office, or any branch thereof, or be any way concerned in receiving, sorting, or delivering of letters,

letters, before he shall have taken the following oath, before a justice of the peace where he resides.

I A. B. do swear that I will not wittingly, willingly, or knowingly open, detain, or delay, or cause, procure, permit, or suffer to be opened, detained, or delayed, any letter or letters, packet or packets, which shall come into my hands, power, or custody, by reason of my employment in or relating to the post-office; except by the consent of the person or persons to whom the same is or shall be directed, or by an express warrant in writing under the hand of one of the principal secretaries of state for that purpose; or except in such cases where the party or parties to whom such letter or letters, packet or packets, shall be directed, or who is or are chargeable with the payment of the post or posts thereof, shall refuse or neglect to pay the same, and except such letters or packets as shall be returned for want of true directions, or when the party or parties to whom the same is or shall be directed cannot be found, And that I will not any way embezel any such letter or letters, packet or packets, as aforesaid. 9 An. c. 10. s. 41.

And if any person shall do any thing contrary to the duties specified in that oath, he shall forfeit 20l. and his office. *f. 40.*

Penalty of stealing contrary.

In the case of *Martin v. Ford*, H. 33 G. 3. it was determined, that the penalty of 20l. inflicted by 9 An. c. 10. s. 40. on persons who willingly or knowingly open, detain, or delay any letter after the same hath been delivered at the post office, or into the hands of any person employed or the receiving or carrying post letters, extends only to persons in the employment of the post office, and not to a person, nominated jointly by the inhabitants of a village near a post town, and the postmaster of that town, to receive and deliver the letters to those inhabitants. 5 T. R. 101.

And persons appointed from time to time to measure the post roads shall be sworn to perform the same according to the best of their skill and judgment before a justice of the peace, who shall make a certificate thereof in writing, to be entered in the general post office, without fee. 9 An. c. 10. s. 12. 5 G. 3. c. 25. s. 9, 10.

Measurer's oath.

By 41 G. 3. c. 7. So much of the 9 An. c. 10. 5 G. 3. c. 25. 24 G. 3. c. 37. and 37 G. 3. c. 18. as establishes certain rates of postage for carriage of letters, is repealed. And in lieu thereof, the rates or prices for carriage of letters shall be as follow;

Rates of postage of letters.

For every single letter not exceeding 15 measured miles from the office where put in to the office where delivered, 3d.; double letter, 6d.; treble, 9d.; an ounce, 1s.; and so in proportion for any greater weight. 41 G. 3. c. 7. s. 2.

Above 15, and not exceeding 30 miles, a single letter, 4d. double, 8d.; treble, 1s.; an ounce, 1s. 4d.; and so in like proportion. *Id.*

Above

Above 30 and not exceeding 50 miles, a single letter, 5d. double, 10d.; treble, 1s. 3d.; an ounce, 1s. 8d.; and so in like proportion. *Id.*

Above 50, and not exceeding 80 miles, a single letter, 6d. double, 1s.; treble, 1s. 6d.; an ounce, 2s. 6d.; and so in like proportion. *Id.*

Above 80, and not exceeding 120 miles, a single letter, 7d.; double, 1s. 2d.; treble, 1s. 9d.; an ounce 2s. 4d.; and so in like proportion. *Id.*

Above 120, and not exceeding 180 miles, a single letter, 8d.; double 1s. 4d.; treble, 2s.; an ounce, 2s. 8d.; and so in like proportion. *Id.*

Above 170, and not exceeding 230 miles, a single letter, 9d.; double, 1s. 6d.; treble, 2s. 3d.; an ounce, 3s. and so in like proportion. *Id.*

Above 230, and not exceeding 300 miles, a single letter, 10d.; double, 1s. 8d.; treble, 2s. 6d.; an ounce, 3s. 4d.; and so in like proportion. *Id.*

Where the distance above 300 miles is not 100 miles, for a single letter, 1d. more; double, 2d.; treble, 3d.; an ounce, 4d.; and so in proportion for every letter or package above an ounce. *Id.*

But where the distance above 300 miles is more than 100 miles, a further sum of, for every single letter, 1d.; double, 2d.; treble, 3d.; an ounce, 4d.; and so on progressively for every further distance of 100 miles, a like further sum for a single letter, 1d.; double, 2d.; treble, 3d.; an ounce, 4d.; and so in proportion.

Letters to and from Ireland.

For all letters to and from *Ireland*, conveyed by packet boats, shall be paid, above all other rates, for every single letter, 2d.; double, 4d.; treble, 6d.; an ounce, 8d.; and so in proportion for more than an ounce. *f. 9.*

By 45 G. 3. c. 11. *f. 1.* the following additional charges are payable:

Within *Great Britain*, and also from *Great Britain* to *Ireland*, for every single letter, 1d.; double, 2d.; treble or other letter under an ounce, 3d.; ounce in weight, and every packet not exceeding an ounce, 4d.; and so in proportion for every other letter or packet of greater weight than an ounce.

By *f. 1.* also, For the conveyance of every packet or cover, containing therein, or having affixed thereto, one or more papers with patterns, or one or more patterns of cloth, silk, stuff, or other goods, or one or more samples of any other sort of thing, not exceeding together one ounce in weight, sent agreeably to the provisions of 26 G. 3. c. 13. and 35 G. 3. c. 53. the sum of 1d.

And for the conveyance of every letter, originally sent by the two-penny post, and not first passing and afterwards to pass by

the general post, directed to or sent from places beyond the delivery of the general post letter carriers, 1d; for every letter originally passing by the general post, directed to places beyond the delivery of the general post, and afterwards delivered by the two penny post, 2d.

And so much of the said act of 9 An. c. 10., as establishes rate of postage from and to *London*, to and from *Portugal*; and so much of the said act of 5 G. 3. c. 25., as establishes rates of postage from and to *London*, to and from his majesty's dominions in *America*, are repealed; and the following duties are imposed in lieu thereof;

For every letter or packet to or from any port of *Great Britain*, to or from *Portugal*, or the *British* dominions in *America*, a single letter 1s.; double, 2s.; treble, 3s.; an ounce 4s.; and so in proportion for any greater weight. 41 G. 3. c. 7. s. 4, 5.

And for the conveyance of letters to or from any port of the united kingdom of *Great Britain* and *Ireland*, from or to any places out of the said kingdom not within his majesty's dominions, in addition to all other rates now payable for every single letter, 4d.; double, 8d.; treble, 1s.; an ounce, 1s. 4d.; and so in proportion. 41 G. 3. c. 7. s. 2.

And all such foreign letters shall also be charged with the full inland rates of postage as aforesaid. 37 G. 3. s. 6.

Provided that no letter or packets shall be rated higher than as a treble letter, unless one ounce weight, and if an ounce then as four single letters, and so in proportion, reckoning each quarter of an ounce as a single letter. s. 7.

By the 45 G. 3. c. 11. from *March* 12, 1805, the following additional sums are made payable for the conveyance of foreign letters, viz.

For the conveyance of letters by post from and to *Great Britain* to and from parts beyond the seas, not within his majesty's dominions, for every single letter 2d.; for every double letter 4d.; for every treble letter, or other letter, under an ounce in weight 6d.; and for every packet not exceeding an ounce in weight 8d.; and so in proportion, for every other letter or packet of greater weight than an ounce.

And over and above the rates and duties hereby granted, all letters and packets passing from *Great Britain* to the *British* dominions in *America*, to or through the kingdom of *Portugal*, to the islands of *Guernsey* and *Jersey*, and the *Isle of Man*, and all letters and packets from those respective countries to *Great Britain*, shall be charged with the inland rate of postage hereby established, of 1d. for each single letter, and so in proportion for double, treble, and other letters according to the weight thereof, for their inland conveyance. s. 2.

But nothing herein shall alter the rates of postage upon single letters sent by the post by or to seamen or privates in the navy, army, militia, fencible regiments, artillery, or marines,

Foreign Letters.

Letters passing to or from the British dominions in America, &c. to be charged with an additional rate.

Rates of postage upon single letters sent by or to seamen, &c. made payable 35 G. 3. c. 1. s. 3.

marines, upon their own private concerns only, whilst such seamen and privates shall be employed in the publick service made payable by the 35 G. 3. c. 53. f. 3.

Newspapers sent by the twopenny post, in what case chargeable.

And all printed newspapers sent by the twopenny post, to places beyond the delivery of the general post, shall be chargeable with a duty of one penny only; provided such newspapers be sent in the manner prescribed by an act, passed in the 42 G. 3. c. 63. f. 4.

Powers of acts relating to the post office, not repealed or altered, to extend to this act.

And all the powers, provisions, penalties, forfeitures, and distribution thereof, and all clauses, matters, and things, contained in any act in force at the time of passing this act, relating to the post office, or any rates or duties payable on the conveyance of letters or packets, (and not hereby repealed or altered,) shall, so far as they are applicable, continue in force, and extend to this present act, and to the rates and duties hereby granted. f. 5.

General issue:

Persons prosecuted for any thing done under this act, may plead the general issue; and, if on trial they shall have a verdict, or the plaintiff shall be nonsuited, such defendants shall have treble costs. f. 8.

Packet postage.

By 46 G. 3. c. 73. Is granted (over and above all other rates for such letters and packets within the united kingdom), for every letter and packet carried or conveyed by packet boats from or to the port of *Falmouth*, or from or to any other convenient port in the united kingdom, to or from the town and fortress of *Gibraltar*, a packet postage according to the rates and sums in sterling money herein after-mentioned, the same being rated either by the letter or the ounce.

For every single letter, 1s. 9d.; double, 3s. 6d.; treble, 5s. 4d.; and for every ounce, 7s.; and so in proportion for every packet of greater weight than an ounce.

And to or from the island of *Malta*, for every single letter, 2s. 1d.; double, 4s. 2d.; treble, 6s. 3d.; ounce, 8s. 4d.; and so in proportion for every packet of greater weight than an ounce.

And between *Gibraltar* and *Malta*, every single letter, 6d.; double, 1s.; treble, 1s. 6d.; ounce, 2s.; and so in proportion for every packet of greater weight than an ounce.

And by 48 G. 3. c. 116. To or from the port of *Falmouth*, to or from *Madeira*, single letter, 1s. 6d.; double, 3s.; treble, 4s. 6d.; ounce, 6s.; and so in proportion for every packet greater than an ounce.

And to or from *Brazil*, or any of the *Portuguese* territories in *South America*, single letter, 2s. 5d.; double, 4s. 10d.; treble, 7s. 3d.; ounce, 9s. 8d.; and so in proportion for any packet greater than an ounce.

And by 39 G. 3. c. 76. The postmaster general and his deputy

deputy may collect and receive letters and packets of letters, directed to places within his majesty's dominions, also to any the kingdoms and countries beyond the seas, and to forward the same by any vessel that he shall think fit (although not a packet boat), and also to take for every letter and packet delivered to him or them for conveyance as aforesaid, a sum not less than one half of the rates payable by law for such respective letters and packets, if the same were conveyed by packet boats; and where no rate of postage is already established, then to take for such letters and packets rates as near as may be equal to one half of what is now paid for letters sent beyond the seas. *f. 1.*

Such postmaster general shall take for every letter and packet brought by vessels (other than packet boats), in manner aforesaid, from places within his majesty's dominions, and from any the kingdoms and countries beyond the seas into *Great Britain*, to be conveyed by inland postage, 4d. for every single letter, and so in proportion for packets, in addition to any inland postage which may arise upon the inland conveyance of such letters and packets; and for the encouragement of the masters of such vessels, such postmaster general shall allow them 2d. a letter or packet upon all such as they shall have or take on board such vessels, provided such letters or packets have been delivered to them from the post office; and in like manner on their arrival from parts beyond the seas on their delivery at the post office of any post town at which they shall touch or arrive, 2d. a letter or packet for all such as they shall have on board, provided the same be regularly delivered. *f. 2.*

And the postmaster general may order the rates of postage chargeable to be paid either prior to such letters and packets being forwarded, or on the delivery thereof, as to him shall seem meet. *f. 3.*

Provided, that nothing herein shall alter the rates of postage upon single letters from or to non-commissioned officers, seamen, and privates in the army and navy, established by 35 G. 3. c. 53. *f. 8.* 41 G. 3. c. 7. *f. 10.*

By 46 G. 3. c. 92. *f. 5. f. 8.* of 35 G. 3. c. 53. is repealed. And by *f. 6.* of that act, it is enacted, that seamen whilst actually employed in his majesty's service may send single letters on their own private concerns only, at the rate of 1d. each, to be paid upon putting them into the post office. Provided that the name of the writer and his class and description in the vessel to which he shall belong shall be superscribed; and also in the hand writing of and signed by the officer at the time commanding the vessel, his name, and that of the vessel.

And by *f. 7.* Such seamen may receive such letters free of postage,

Not to extend to
soldiers or to
men.

postage, provided that 1d. for each shall be paid upon putting the same into the post office; and the name of the vessel to which they belong shall be superscribed; provided also that such letters shall be only delivered to the seamen to whom directed, or to persons appointed to receive them by writing under the hand of the commanding officer of the vessel; commissioned officers, or warrant officers, midshipmen, or masters mates, not included in this *f*.

By *f*. 8 and 9. The same provisions are extended to every serjeant, corporal, drummer, trumpeter, fifer, and private soldier in his majesty's regular forces, militia, fencible regiments, artillery or royal marines, within any part of his majesty's dominions.

By *f*. 10. The sections 8. and 9. are not to extend to commissioned officers or warrant officers.

By *f*. 11. Any such commander wilfully and knowingly writing his name upon any letter that is not from such seaman, &c. shall forfeit 5*l*.

And by *f*. 12. A like penalty is imposed upon persons not being such commanders writing their name upon any letter that it may be sent at a lower rate of postage than by law established.

And by *f*. 13. A like penalty is imposed upon those who knowingly address a letter to any such seaman, &c. which shall be intended for another person, or concerning the affairs of another person, for the purpose of evading legal postage.

By *f*. 14. If any shall procure any such seaman, &c. to obtain the signature of his commanding officer to any letter to be sent by post which shall not be on the private concerns of such seaman, &c.; or if any such seaman, &c. shall himself obtain such signature upon any letter not from such seaman, &c., and upon his own private concerns only, in order to avoid the payment of legal postage, he shall forfeit 5*l*.

By *f*. 15. One moiety of the penalties imposed by this act to be to the use of his majesty, and the other to him who informs and sues for, and may be recovered before one or more justices of the peace for the county, city, riding, town, or place where the offence shall be committed, either upon the party's voluntary confession, or the oath of one witness, (which oath the said justice of the peace may impose,) and in default of payment the offender shall be committed to the house of correction for not exceeding one month, or until the penalty be sooner paid.

And all provisions of former acts relating to the post office, not hereby repealed or altered, shall continue in force.
59 G. 3. c. 76. *f*. 9.

Bills included.

Bills of exchange written on the same piece of paper with a letter, and several letters to several persons written on the same

same piece of paper, shall pay as so many distinct letters. 6 G. 2. c. 21. f. 51.

Writs or other proceedings at law inclosed, or written on the same piece of paper with a letter, shall pay as so many distinct letters. 26 G. 2. c. 13. f. 6.

Proceedings in Law.

And all merchants accounts, bills of exchange, invoices and bills of lading, shall be rated as so many several letters or by the ounce according to the rates by this act made payable on letters conveyed by the general post. 41 G. 3. c. 7. f. 4.

Merchants accounts, &c.

But patterns and samples of goods inclosed in any cover open at the sides, and without any letter or writing therein, and not exceeding one ounce, shall not be charged with a higher postage than a single letter. 35 G. 3. c. 53. f. 9.

Patterns and samples.

For preventing prohibited goods being imported in letters or packets, the officer employed at the post office where any foreign letter or packet containing any inclosure shall be received may carry the same before a justice for the county, or magistrate for the town, in which such office is situate, and upon oath made that he suspects the same to contain goods which are prohibited to be imported, or upon which a duty is payable upon importation, shall, in the presence of such magistrate, cut open a slit in such letter or packet not exceeding two inches in length; and if it shall appear to such magistrate that any such goods are contained therein, he shall open the same, and in the presence of such officer destroy such goods, and inclose such letter or packet in a cover, in which shall be written an attestation signed by him of the name of the officer who brought the same, and the time when and the quantity and description of goods found therein, and that the same were destroyed; which cover shall be sealed and forwarded to the commissioners of the customs, who, on receipt thereof, shall pay to the said officer any sum not exceeding 5l. nor less than 10s. 24 G. 3. c. 37. f. 2. f. 4.

Prohibited goods, suspected to be in foreign letters.

And if on making such slit as aforesaid no such goods shall be found in such letter or packet, such magistrate shall inclose the same in a cover, and shall therein also send an attestation signed by him that the said opening was made in his presence, and shall deliver the same sealed up to the said officer, to be forwarded by the ordinary course. And no additional postage shall be charged in consequence of such proceeding. *Id.* f. 5.

In the case of *Barnes v. Foley*, H. 8. G. 3. a special case was reserved at *nisi prius*, upon the trial of an action brought by an inhabitant of Bath against the postmaster who demanded and received of him an halfpenny a letter more than the settled rate of postage. The point meant to be settled was, whether the postmaster was obliged to deliver out letters sent by the general post, at the respective habitations of the persons residing in that city to whom such letters were addressed, for

Postmasters are not to charge for delivering letters.

the mere rate or price settled by the act of parliament: or whether it was incumbent upon such persons to come or send to the post office, to enquire after and fetch their letters, in case they insisted upon not paying any more for them than the strict rate allowed by act of parliament, and refused to make any compensation whatsoever for the trouble of carrying them out and delivering them at their respective habitations. But the case being stated so as not to bring that point fully in question, *L. Mansfield* said he would not give a judicial opinion, whether the postmaster was or was not obliged to deliver out the letters to all persons to whom they were addressed, inhabiting within the city of *Bath*. But he observed, that the principal question in this cause being, whether the postmaster has a right to impose this additional charge, unless the postmaster can support such right, there is an end of the present action. The whole revenue ought to go to the crown; none of it to the postmaster; and the crown is to be at the whole expence. If the postmaster hath a power to demand any thing at all, he may increase it at pleasure, and so raise a tax upon the subject at his discretion. And *Sir Fletcher Norton*, for the postmaster, said, he would not pretend to argue it upon the foot of the postmaster's having a right to demand a further price for the letters than the acts of parliament allow. Whereupon the plaintiff had judgment, *Barnes v. Foley*, 4 Burr. 2149.

Postmasters
are obliged
to deliver
letters.

Afterwards, in the case of *Stock and Harris* postmaster of *Gloucester*, H. 11 G. 3. the question reserved for the opinion of the court was, Whether the postmaster was obliged to deliver letters to the plaintiff, an inhabitant of the city, at his place of abode, for the postage only? And the court were unanimously of opinion that he was obliged. And *L. Mansfield* observed, that the inconvenience of the inhabitants sending for their letters to the post office might be very great. How should people know of their letters? And are they to come or send to the post office every post day, to inquire after the chance of a letter? This would be exceedingly inconvenient to every body; and would be particularly hard upon such of the inhabitants as seldom receive any letters by the post at all. 5 Burr. 2079.

Again, T. 13 G. 3. in the case of *Rowning v. Goodchild* in the common pleas, the question submitted to the opinion of the court was, whether the deputy postmaster of *Ipswich* was bound to deliver letters at the houses of persons living in *Ipswich*, on paying the legal postage only. After two or three arguments, and taking time to consider, it was unanimously holden that he was. And *Ld. Ch. J. De Grey* said it had been the practice for many years to deliver letters at the houses of persons residing in *London*, *York*, *Bristol*, and divers other towns,

towns, on paying the legal postage only. And as there is the same reason for doing it in all other post towns, the law ought to be the same in all. 5 Burr. 2709. 2 Black. Rep 906.

Finally, in the case of *Smith and Powdick*, in the king's bench, M. 15 G. 3. this point came on again, in an action against the postmaster of *Hungerford*. And though it was suggested, that the cases hitherto in this court had been determined on their own particular circumstances, the court said that they considered the case of *Rowning v. Goodchild*, to have decided the general question, that the postmaster is bound to deliver the letters to all persons within the limits of the post town, and they gave judgment for the plaintiff. *Cruzer*. 182.

Within the limits of the *penny post* in *London*, shall be paid 1d. (at putting in, and 1d. at delivery, 4 G. 2. c. 33.) 9 An. c. 10. f. 6. Penny-post.

And by 34 G. 3. c. 17. there shall be paid 1d. additional postage for letters sent by the *penny post* from any place without to any place within the cities of *London* and *Westminster* and *Southwark*, or the suburbs thereof. f. 1.

The postage may be paid or not on putting in the letter, at the option of the person putting the same in. f. 2.

And by 41 G. 3. c. 7. shall be paid for every letter originally sent by the *penny post* (and not first passing by the general post office) the postage of which shall not be paid at putting in, 2d. f. 3.

The postmaster general, and his deputies, may appoint a *penny post* office in any city, or town, and places adjacent, where they shall judge convenient, and may charge therein the same rates, as within the limits of the *penny-post* office in *London*. 5 G. 3. c. 25. f. 11.

Provided that no parcel shall be carried by the *penny-post* exceeding the weight of four ounces; unless it be carrying to or from the general post office. f. 14.

And by 24 G. 3. c. 37. f. 2. certain additional duties are granted on the postage of letters, but the same are not to extend to the *penny-post*. f. 6.

None but the postmaster shall carry letters; on pain of 5l. for every offence, and a 100l. a week besides; half to the king, and half (with full costs) to him that shall sue in any court of record. 9 An. c. 10. f. 17. 19. None but the postmaster to carry letters.

Except in certain cases which are also specified in *stat.* 42 G. 3. c. 81. f. 6. *Vid. post.* Exceptions.

And except in the two universities; to and from which letters may be sent in manner as heretofore hath been used. f. 32.

The postmaster general may undertake the conveyance and delivery of letters directed to persons abiding in towns and places

places (not being post towns) from the respective towns to which such letters should be carried by the post in the usual manner, and also the collection of letters from towns, villages, and places to be sent by the post, and may take such sums of money for such extra service as may be agreed upon between him and the inhabitants of such place. 41 G. 3. c. 7. §. 5.

Provided, that nothing herein shall prevent the inhabitants of any such towns and places from carrying or employing servants or other persons to carry letters to or from the post town in like manner as they have been heretofore accustomed to do. *Id.* §. 6.

And by 46 G. 3. c. 92. §. 2. the postmaster general is authorized to do the same where the towns from whence the letters are to be conveyed are not post towns: And §. 3. contains the same proviso as §. 5. of 41 G. 3. c. 7.

Persons sending letters otherwise than by the post to forfeit 5l.

And no person shall send or tender or deliver to be sent otherwise than by the post, or by the authority of the postmaster general or his deputy or deputies, or to the nearest and most convenient post town to be from thence forwarded by the post, any letter or packet, on pain of 5l. for every offence, with full costs to the informer in any court of record at *Westminster*; one moiety thereof to the king, the other moiety to the informer. 42 G. 3. c. 81. §. 5.

Exceptions.

Provided, that nothing herein shall extend to any letter concerning goods sent by any common carrier and to be delivered with such goods without profit or advantage for receiving or delivering the same; nor any letter of merchants, owners of ships, or merchant vessels, nor any the cargo therein sent on board such vessels to be delivered by the masters thereof, or by any other employed by them for the carriage thereof without hire or reward for the same; nor any commission or return thereof; affidavits, writs, process, or proceedings, or return thereof, out of any court; nor any letter sent by any private friend in their way of journey, or by any messenger sent on purpose, concerning the private affairs of any person. §. 6.

Post boy loitering upon the road.

If any post-boy shall quit the mail before his arrival at the next stage; or shall suffer any other person (except the person employed to guard the mail) to ride on the horse or carriage; or shall loiter on the road, or shall not in all possible cases convey the mail after the rate of six miles an hour at least; he shall on conviction by confession, or oath of one witness, before one justice, be sent to the house of correction, to be there kept to hard labour, not exceeding one month, nor less than 14 days. 5 G. 3. c. 25. §. 20.

Unlawfully collecting letters.

And if any post-boy shall by himself or in combination with others unlawfully collect any letters, or convey or cause

them

them to be conveyed, he shall, on conviction by confession or oath of one witness before one justice, forfeit for every letter or packet 10 s. to the informer; if not forthwith paid on conviction, to be committed to the house of correction to hard labour, not exceeding two months nor less than one. *f. 21.*

If any person intrusted to take in letters and receive the postage thereof, shall embezzle or apply to his own use any money received by him with such letters for the postage thereof; or shall burn or otherwise destroy any letter or packet by him so taken in or received; or who, by virtue of his office, shall advance the rates upon letters or packets, and not duly account for the money received by him for such advanced postage; he shall be deemed guilty of felony. *f. 19.*

And by the 7 G. 3. c. 50. If any person employed in any business of the post office, who shall take any letter or packet to be forwarded by the post, and receive any money therewith for the postage, shall burn or destroy any such letter or packet; or shall advance the rate of postage upon any letter or packet, and not duly account for the money by him received for such advanced postage; he shall be deemed guilty of felony. *f. 3.*

All sums not exceeding 5l. that shall be due from any person for letters, or which shall be received for the carriage of letters, without answering the same to the receiver general, shall be recovered before justices of the peace in the same manner as small tithes; and such debt shall be preferable in payment before any debt to any private person. 9 An. c. 10. *f. 30.*

By the 7 G. 3. c. 50. *f. 1.* (which re-enacts more at large the provisions of 5 G. 3. c. 25. *f. 17.*) it is enacted that if any deputy, clerk, agent, letter carrier, post boy, or rider, or any other officer or person whatsoever, employed in receiving, stamping, sorting, charging, carrying, conveying, or delivering letters or packets, or in any other business relating to the post office, shall secrete, embezzle, or destroy any letter, packet, bag, or mail of letters which such person might be entrusted with, or which shall have come to their hand or possession, containing any bank note, bank post bill, bill of exchange, exchequer bill, *South Sea* or *East India* bond, dividend, warrant of the bank, *South Sea*, *East India*, or any other company, society, or corporation, navy or victualling or transport bill, ordnance debenture, seamen's ticket, state lottery ticket, or certificate, bank receipt for payment on any loan, note of assignment of stock in the funds, letter of attorney for receiving annuities or dividends, or for selling stock in the funds, or belonging to any company, society, or corporation, *American* provincial bill of credit, goldsmiths' or bankers' letter of credit, or note for or relating to the pay-

Imbeziling money for letters post paid, or destroying the letters.

Money for postage how to be levied.

Secreting, embezzling or destroying letters containing certain securities or instruments by one employed by the post office, felony without clergy.

Stealing, or taking the same out of any letter or packet, felony without clergy.

Employed in sorting, &c.

ment of money ; or other bond or warrant, draught, bill, or promissory note whatsoever for the payment of money ; or shall steal, or take the same out of any letter or packet that shall come to their hands or possession, such offender or offenders shall be guilty of felony without benefit of clergy.

The prisoner *S. Shaw* was indicted (*O. B. May 1771*), on the *stat. 7 Geo. 3.* There were four counts in the indictment. 1st, That, being a clerk employed in sorting and charging letters in the post office, the prisoner feloniously secreted, embezzled, and destroyed a letter containing a bank note for 20l. 2dly, That being a person employed in the business relating to the general post office, he secreted, &c. 3dly, That being a clerk employed in sorting and charging letters in the post office, he feloniously stole and took out of a letter a bank note for 20l. 4thly, That being a person employed in the business relating to the general post office, he feloniously stole &c. It appeared in evidence that the prisoner was only a *sorter*, and not a *charger* of letters ; whereupon the recorder, who tried him, directed the jury (the proof of the fact being very plain) to convict him, which they did, on the second and fourth counts only. It was then moved in arrest of judgment that, as he had been acquitted on the counts which charged him as a *sorter* and *charger*, and did not appear to be a person employed by the post office in any other business but that of *sorting*, which is one of the employments particularly specified in *stat. 7 G. 3.* which says, that “ if any person employed in receiving, sorting, charging, &c. or in any other business relating to the post office, shall,” &c. he could not be convicted on the third and fourth counts. This, being adjourned to serjeant’s inn, was argued before eleven of the judges, (*abs. Blackstone J.*) who unanimously agreed that judgment should be arrested, but inclined to think, that the jury might have convicted the prisoner on the first and third counts, by a special finding that he was a *sorter* only. *2 Bl. Rep. 789.*

Containing any bank note, &c.

The prisoner *B. Willoughby* was indicted on the *7 G. 3. c. 50.* (*Warwick Lent Assizes 1783*), for that he, being a clerk employed in the post office at *Birmingham*, in stamping and charging letters, stole and took out of a letter there, a certain warrant for the payment of money, [setting it forth, by which it appeared to be a *Birmingham* post bill, or bill of exchange, payable in *London*.] The fact of stealing having been proved, it was objected that this was not “ a warrant for the payment of money ” within the meaning of the act, but a post bill, or bill of exchange. The prisoner was found guilty, but judgment was respited to take the opinion of the judges. Though at first there was a difference of opinion among the judges, at length they all agreed that it was properly stated in the indictment ; for though it was a bill of exchange, it was also a

Warrant

warrant for the payment of money ; it was a voucher to the bankers or drawers, if genuine, for the payment, and it might also have been laid to be a draught. And they said it could not be distinguished from the case of *R. v. Shepherd, Mich. 1781*, where in forgery the indictment was in the same form, and holden good. 2 *East. P. C. c. 16. f. 22.*

Stealing money out of letters is not within these acts. *T. Stull*, who was a forger of letters, &c. stole two letters, each containing 5s. 3d. in gold coin ; and being indicted (*O. B. 1774*) on these statutes, and the fact being proved, it was objected that as the letters contained money, and not any security relating to the payment of money mentioned in the acts, the case did not fall within them ; and the court being of the same opinion, he was acquitted on that indictment ; but was again indicted and convicted of grand larceny for stealing the money, and was transported. *Id.*

Money in a letter.

In *Mossie's* case, it was holden upon a conference by all the judges (except *Buller J.* who was absent, and doubted) that a letter carrier secreting half a bank note in one letter on one day, and the other half in another letter on another day, is a secreting within the *stat. 7 Geo. 3. c. 50. lb.*

Parts of a note.

Since this decision another act has passed, 42 *G. 3. c. 81.* which, after reciting the *stat. 7 Geo. 3. c. 50. f. 1*, and the expediency of extending its provisions so as to protect the conveyance by the post of all and every part or parts of such securities or instruments, enacts, That if any deputy, clerk, agent, &c. &c. in the post office shall secrete, embezzle, or destroy any letter or packet, bag or mail of letters, with which he is entrusted, or which may come into his possession, containing any part or parts of any such security or instrument as in the said act are mentioned, or shall steal or take out of any letter or packet that shall come to his possession any part or parts of any such security or instrument, every such offender shall be guilty of felony without benefit of clergy. *f. 1.*

And if any person whatsoever, whether employed in any business relating to the post office or not, shall counsel, command, hire, persuade, procure, aid, or abet any such deputy &c. or other officer employed &c. in the post office, to commit any offence in the said recited act, or in this act before mentioned ; or shall with a fraudulent intention buy or receive the whole or any part of such security &c. which he shall know to have been contained in any such letter &c. so by any such deputy, &c. secreted or embezzled, or stolen or taken out of any letter &c. that shall come to his possession, or which he at the time of buying or receiving shall know to have been contained in and stolen or unlawfully taken out of any letter &c. stolen and taken by any person whatsoever from or out of any mail, bag &c. or from or out of any post office, or house or place, for the receipt or delivery of letters &c. ; each and every

Persons procuring, &c. to commit offences, or fraudulently receiving such securities or parts thereof, guilty of felony without clergy

and may be tried before or after the principal.

Robbing the mail, or stealing letters.

person so offending shall be deemed guilty of felony, without benefit of clergy; and may be tried and convicted as well before as after the trial or conviction of the principal felon, and whether the principal felon shall have been apprehended or shall be answerable to justice or not. *f. 2.*

If any person shall rob any mail of any letter, packet, or bag; or shall steal and take any letter or packet from or out of any mail or bag, or from or out of any post office, or house or place for the receipt or delivery of letters, sent or to be sent by the post, although the same shall not appear to be a taking from the person, or on the king's highway, or to be a robbery committed in a dwelling house, or a coach house, stable, barn, or outhouse belonging to a dwelling house; and although it shall not appear that any person was put in fear by such robbery, stealing, or taking; he shall be guilty of felony, without benefit of clergy. *7 G. 3. c. 50. f. 2.*

This section does not extend to the servants of the post office; and therefore a conviction of one of them for stealing out of the post office a letter, sent to be delivered by the post, was holden to be wrong. The opinion of the judges in this case was founded on a comparison of the second section of the act with the first and third sections, which were expressly intended to guard against the misconduct of the servants of the post office. *B. Pooley's case. 1 East. P. C. Addenda 17.*

N. Pearce, intending to steal the mail bags, went one night about the usual time to the post office at *High Wycombe*, and pretending to be the mail guard, obtained from the person at the office the bags of letters, which were let down to him from out of the window of the post office by a string, from whence he took them, and immediately went away. Being indicted on this act, (*Buckingham Sum. Ass. 1794*), and found guilty; all the judges were of opinion in *Hilary Term* following, that the conviction was proper on a count in the indictment for stealing the letters out of the post office. His artifice in obtaining the delivery of them in the bag out of the house was the same as if he had actually taken them out himself. *2 East's P. C. c. 16. f. 39.*

A letter carrier, taking letters out of the office, intending to deliver them to the owners, but to embezzle the postage, cannot be indicted for stealing such letters under this act. *J. Howatt* was indicted (*Lancaster Sum. Ass. 1795*), on the second section of this act; 1st, for stealing out of the *London* bag, sent by the general post office from *London* to *Manchester* divers letters specified; 2dly, 3dly, and 4thly, for stealing the like letters out of the post office in *Manchester*, and out of a certain house for the receipt and delivery of letters sent by the post, and out of a certain place for the same. It appeared to be the duty of the clerks in the office to count the

the letters and deliver them out to the letter carriers, of whom the prisoner was one. He contrived to obtain possession of some of the letters before they were so counted out to him, and was detected with them in his pocket in the letter carrier's room, which is under the same roof as the office, separated from it only by some steps. For some time previous there had been a great deficiency in the receipt of the postage, though there was no complaint of the miscarriage of any letters; and from circumstances it appeared, and so the jury found when they convicted the prisoner, that he intended to have delivered the letters, and only to have embezzled the postage. But in the *Michaelmas* Term following all the judges (*abs. Hotham B.*) agreed, that this was not a stealing within the act. 2 *East's P. C. c. 16. f. 39.*

T. Thomas was indicted (*O. B. Dec. 1794.*) on the *stat. 5 Geo. 3. c. 25. f. 18.*, and *7 Geo. 3. c. 50. f. 2.* First, for robbing the mail in which letters were sent by the general post from *Bristol* to *London* of one letter &c.; and 2dly, for stealing and taking from out of a certain bag of letters, called the *Bristol* bag, for *London* &c. one letter &c. Both these offences were charged to have been committed in *Middlesex*, and the trial was had at the *Old Bailey*. The prisoner went on the outside of the mail from *Bristol* to *London*; part of the way on the coach box, and part (through the counties of *Wills* and *Berks*) on the guard's seat. There was no doubt of the fact of the prisoner's having taken the letters in question out of the mail during some part of the journey, and most probably while he was in the guard's seat. In answer to the objection on behalf of the prisoner, that there was no evidence to prove the offence in *Middlesex*, it was answered that the offence was not complete until the prisoner had quitted the coach, which was in *Middlesex*; or at any rate, that having possession of the letters there, it was a new taking and offence in that county. The jury found the prisoner guilty, adding that the letters were not taken out of the bag in *Middlesex*, but in one of the other counties. But upon a reference to the judges in *Hilary* Term 1795, they held that the conviction was wrong, the offence not having been proved where it was laid. 2 *East's P. C. c. 16. f. 39.*

But now this difficulty is removed by the *stat. 42 Geo. 3. c. 81. f. 3.* which, after reciting the *stat. 7 Geo. 3. c. 50. f. 1. enacts*, that the offences therein mentioned may be laid and tried (if committed in England), either in the county where the offence is committed, or wherein the offender is apprehended; if in Scotland, either in the judicatory court of Edinburgh, or in the court of the circuit within which the felony is committed, or the offender apprehended.

By

Persons secret-
ing or refusing
to deliver up
letters, which
shall be found
or picked up,
&c. guilty of
a misdemeanor.

By *stat. 42 Geo. 3. c. 81. s. 4.* it is enacted, *That if any person shall wilfully secrete, keep, or detain, or being required to deliver up by any deputy clerk, agent, letter carrier, post boy, rider, driver, or guard of any mail coach, or any other officer or person whatsoever employed in any business relating to the post office, shall refuse or wilfully neglect to deliver up any mail or bag of letters sent or conveyed, or made up in order to be sent or conveyed by the post, any letter or packet sent by the post, or put for that purpose into any post office, or house or place for the receipt or delivery of letters &c. and which letter or packet, bag, or mail of letters, shall have been found or picked up by the same, or any other person, or shall by or through accident or mistake have been left with or at the house of the same, or any other person; each and every person so offending shall be deemed to be guilty of a misdemeanor, to be punished by fine and imprisonment.*

Riding post.

The postmasters may charge 3d. a mile for each horse riding post, and 4d. a mile for the person riding as guide; and shall not charge for any bundle or parcel of goods not exceeding 80 lb. weight, to be laid on the horse rid by the guide; and shall not be obliged to carry above that weight. 9 *An. c. 10. s. 14.*

Carriages con-
veying the mail,
exempted from
tolls.

And whereas by several acts for repairing particular roads, carriages, horses, and other cattle employed in conveying the mail, are exempted from the payment of tolls, and by several other acts horses only are exempted, it is enacted that all carriages of what description soever, or horses employed in conveying the mail, shall be exempted from tolls at every turnpike gate; and all gate keepers are required to permit such carriages and horses to pass through such toll gates without demanding any toll. 25 *G. 3. c. 57. s. 1.*

Postmaster not
to meddle in
elections.

No postmaster shall, by word, message, or writing, or in any other manner, endeavour to persuade any elector to give, or dissuade any elector from giving, his vote for the choice of any person to serve in parliament, on pain of 100l.; half to the informer, and half to the poor, and likewise of being incapacitated. 9 *An. c. 10. s. 44.*

II. Exemptions from postage and franking by members of parliament.

Letters sent to
the king; or
sent to or frank-
ed by members
of parliament.

By 24 *G. 3. c. 37. s. 2. s. 7.* No letter or packet shall be exempted from postage except such as shall be sent to or from the king; and such, not exceeding one ounce, are exempted from postage, as shall be sent by any member of the two houses of parliament of the united kingdom of *Great Britain and Ireland* during the sitting of parliament or within 40 days before or after any summons or prorogation; and whereon the whole superscription shall be of the hand writing of

of the member directing the same, and shall have his name indorsed thereon, together with the name of the post town from which the same is intended to be sent, and the day, month, and year when put into the office, (the day of the month to be in words at length,) and the same shall be put into the office on the day of the date put upon such letter. 42 G. 3. c. 63. s. 1, 2.

And no letter to any member of either house of parliament shall be exempted, unless directed to such member, at the place where he shall actually be at the time of the delivery thereof, or at his usual place of residence in *London*, or at the house of parliament, or the lobby of such house of which he is a member. s. 1.

And no letter or packet directed by any such member shall be exempted from postage, unless such member whose name shall be indorsed thereon pursuant to the laws now in force, shall actually be in the post town into the post office of which every such letter or packet shall be put, or within the limits of the delivery of letters for such post town, or within 20 miles of such post town, on the day, or the day before, on which the same shall be put into the office. s. 2.

The member to be within 20 miles of the place where the letter is put into the office.

No such members shall be allowed to send more than 10, nor receive more than 15, letters free from postage in one day. s. 1.

Number in one day.

And when the number, not above one ounce each, sent or received by any such member in one day, shall exceed the number herein allowed, and the postage on any of them shall differ, then such letter or packet as shall be chargeable with the highest postage shall be included in the number exempted, in preference to those of a lower postage, and the remainder shall be chargeable as other letters. s. 3.

Letters exceeding the number

Provided, that the lord high treasurer or commissioners of the treasury, the secretaries to the treasury, the lord high admiral or commissioners of the admiralty, the secretaries to the admiralty, the secretaries of state, and their under secretaries, the clerks of the privy council, secretary at war, and deputy, the postmaster general and secretary, the postmaster general for *Scotland* and secretary, the surveyors of the post office, paymaster general, commander in chief and secretary, adjutant general, comptroller of army accounts, all within *Great Britain*; the chief governor of *Ireland* and secretary, the secretary for *Ulster* and *Munster*, and secretary in *Great Britain*, the under secretary for the law department of the chief secretaries office, and under secretary and first clerk for the military department thereof, the lord high treasurer or commissioners of the treasury and secretary, the postmaster general, all within *Ireland*, may continue to send and receive letters free from postage as heretofore. s. 4.

Persons authorized officially to send and receive letters free.

And

And also the clerk of the parliaments, clerk assistant, reading clerk of the house of peers, and the clerk of the house of commons, and deputy, the two clerks assistant, and chief clerk without doors of such house (who receives and pays the fees), may send and receive letters free from postage as heretofore. *f. 5.*

And also the treasurer of the navy, and inspector of seamen's wills (under 26 G. 3. c. 63.) as before the 35 G. 3. c. 53. *f. 6.*

The surveyor general of his majesty's woods &c. is also in like manner exempt from the duty of postage in respect to letters sent or received by him, as the officers mentioned in 4 G. 3. c. 24. and 42 G. 3. c. 63.—46 G. 3. c. 142. *f. 6.*

Also clerks in the offices of the secretaries of state and post office, being thereunto licensed by the secretaries or postmaster general respectively, may continue to frank votes and newspapers as heretofore hath been used; provided the same be sent without covers or in covers open at the sides. 4 G. 3. c. 24. *f. 6.*

Also by 43 G. 3. c. 119. *f. 19, 20.* the privilege of franking is extended to the accountant of *Greenwich* chest.

Postmaster of Ireland may authorize a person to send certain letters, &c. free of duty under certain regulations.

The postmaster general of *Ireland* may authorize two persons to send letters and packets concerning the business of the post office only free from postage, provided they subscribe an indorsement thereon, signifying that such letter or packet is upon his majesty's service, and seal the same with the seal of office; and if any such person shall so indorse or subscribe such indorsement or promise the same to be made upon any letter or packet which does not really concern the business of the post office, in respect of which he is authorized to make the same, he shall for the first offence forfeit 5*l.* to be recovered and applied as by 9 *An. c. 10.* (*f. 19.* namely, by action in any court of record, one moiety of such penalty to the crown, and the other moiety to the informer, with costs;) and for the second offence shall be dismissed from his office. 42 G. 3. c. 63. *f. 8.*

Persons entitled to frank may in case of infirmity authorize a person to write for him, under certain regulations.

In case any person entitled to send letters or packets free of postage, being by bodily infirmity disabled from writing the whole superscription, shall appoint some person on his behalf to sign his name upon and write the superscription of such letters and packets, and shall cause notice thereof in writing under his hand and seal, or the hand and seal of any person authorized by him to notify the same, such authority being to be attested by the signature of any witnesses present when it was given, and who shall subscribe such notice, to be transmitted to the postmaster general, all such letters and packets so signed and superscribed by the person so authorized shall pass free from postage, and be proceeded with as in other cases of franks. *f. 9.*

But

But nothing herein shall extend to printed votes or proceedings in parliament, or printed newspapers sent without covers, or in covers open at the sides, signed on the outside by any member of parliament, or clerk of either house, or directed to a member or clerk at any place, whereof he shall have given notice to the postmaster general, at *London* or *Dublin*. 4 G. 3. c. 24. §. 5. 35 G. 3. c. 53. §. 6. 42 G. 3. c. 63. §. 10, 11.

Proceedings in parliament, and newspapers.

And the postmaster general in *England* and *Ireland* respectively, or any officer employed under him, may search any packet sent without a cover, or in a cover open at the sides, to discover whether any paper or thing be inclosed in such printed paper, and whether such newspapers have been duly stamped; and if any thing shall be found inclosed, or there shall be other writing than the superscription on such printed paper on the cover thereof, the whole packet shall be charged with treble postage; and if such newspaper be not stamped it shall be stopped and sent to the stamp office at *London* or *Dublin*, as the case may be. §. 12.

Postmaster general may search certain packets for certain purposes.

Provided, that any person may send printed votes, proceedings in parliament, and printed newspapers, by the post to *Ireland*, at the rate of 1d. for each, and in like manner newspapers from *Ireland* to *England* and *Scotland* at the same rate; such votes, proceedings, and newspapers to be open at both ends; the said postage to be paid on putting the article into the post office. §. 13.

Votes, &c. may be sent to and from *Ireland* at 1d. each.

By the 44 G. 3. c. 84. reciting that the 42 G. 3. c. 63. authorized the sending and receiving of letters and packets, votes, proceedings in parliament, and printed newspapers, by the post, free from the duty of postage, by the members of the two houses of parliament of the united kingdom, and by certain public officers therein named; and that the privilege of sending and receiving letters and packets free from the duty of postage is not by the said act extended to the master-general of his majesty's ordnance, or to either of his secretaries, to the secretary to the board of ordnance, to the inspector-general of fortifications, or to the quarter-master-general of his majesty's forces, who, by virtue of their respective offices, necessarily send and receive many letters and packets relating to the public concerns of this kingdom; it is enacted, that from the passing of this act, (20th July 1804) the master-general of his majesty's ordnance, one of the secretaries to the said master-general, the secretary to the board of ordnance, the inspector-general of fortifications, and the quarter-master-general of his majesty's forces, all for the time being, shall and may send and receive letters and packets free from the duty of postage, in the same manner and under such restrictions as the commander in chief of his majesty's forces for the time being, and other officers

Master-general of the ordnance, &c. inspector-general and quarter-master-general, may send and receive letters free from postage.

officers of his majesty's forces, therein specified, are thereby permitted, in respect of their offices, to send and receive letters and packets free from the duty of postage. *f. 1.*

The respective officers herein mentioned to appoint certain persons to indorse letters and packets to be sent free from their offices, &c.

And the lieutenant-general and principal officers of his majesty's ordnance, and the adjutant-general of his majesty's forces, and the quarter-master general of his majesty's forces, for the time being, may respectively authorize and direct certain persons, not exceeding two in number, in their respective offices or departments; and the barrack master general of his majesty's forces for the time being, may authorize and direct one person in his office or department (a list of whose names shall from time to time be transmitted to the general post offices in *London*), severally and respectively to make and subscribe an indorsement upon letters and packets, to be sent by the post free from their respective offices, which shall concern the publick business of such offices or departments, signifying that such letters, and packets are upon his majesty's service, which letters and packets, being so subscribed and sealed with the respective seals of the several officers above specified, for the time being, shall and may be sent and conveyed by the post free from the duty of postage. *f. 2.*

Penalty for making indorsement on letters not concerning the business of the office.

But if any person authorized to make and subscribe such indorsement shall knowingly make the same, or procure the same to be made, upon any letter or packet which does not really concern the business of the office or department to which he shall belong, he shall for the first offence forfeit 50*l.* to be recovered and applied in the manner directed by the 9 *Ann. c. 10.* with respect to the penalties thereby inflicted; and for the second offence he shall be dismissed from his office. *f. 3.*

By 46 *G. 3. c. 61. f. 1.* The privilege of sending and receiving letters and packets free of postage is extended to the lord high chancellor of *Great Britain*, the speaker of the house of commons, the first lord commissioner of his majesty's treasury in *Great Britain*, the first lord commissioner of the admiralty, the chancellor of the exchequer in *Great Britain*, the chancellor of the exchequer in *Ireland*, the president of the committee of council appointed for the consideration of matters relating to trade and foreign plantations, and the assistant secretary to the treasury in *Great Britain*.

And by *f. 2.* the lords commissioners of the treasury for the time being, may by writing under their hands, authorize that letters and packets directed by his majesty's post-master general, the secretary to the post-master general, the secretaries to the treasury, and the assistant secretary to the treasury, may be sent free from postage, without the name of the

the post town, and the date of the day, month, and year superscribed thereon.

And by 48 G. 3. c. 90. it is enacted, that all letters and packets addressed to the commissioners for auditing public accounts, and to the commissioners for the affairs of barracks, and by their secretaries, and in their absence by the chief clerk of such secretaries, on business relating to their respective offices shall be sent free of postage; and all such letters and packets forwarded by the said secretaries or chief clerks, shall be under covers, having respectively printed thereon, 'pursuant to act of parliament, auditor's office,' or 'pursuant to act of parliament, barrack office.' And a secretary or some chief clerk nominated by the commissioners in each office shall write his name thereon.

By s. 2. If the secretary or clerk send under any such cover any writing, paper, or parcel, not relating to such duties, he shall forfeit 100l. one moiety to him suing for the same, the other to the king.

If any person shall counterfeit the hand writing of any person in the superscription, in order to avoid the payment of postage; [or shall alter, or cause to be altered the date upon such superscription, or write or send any letter the cover whereof shall be forged, counterfeited, or altered, knowing the same;] he shall be guilty of felony, and transported for seven years. 4 G. 3. c. 24. s. 8. 24 G. 3. c. 37. s. 2. s. 9. 42 G. 3. c. 63. s. 14.

By the 35 G. 3. c. 53. no single letter sent by the post from any non-commissioned officer, seaman, or private of the navy, army, militia, fencibles, artillery, or marines, shall, while employed in his majesty's service, be chargeable with more than 1d. which shall be paid at putting the same into the post office; provided that there be written upon the same, in the hand writing of the commanding officer for the time being, his name, and the ship, corps, regiment, or detachment to which such person belongs. s. 7.

Forging franks.

Single letters from non-commissioned officers, seamen, or privates in the navy or army.

And no single letter sent to any such person, upon his own private concerns only, shall be charged with more than 1d. postage, to be paid upon delivery; but the same must be directed to such persons, and specify the ship, regiment, troop, corps, company, or detachment to which he belongs, And the deputy postmaster shall not deliver such letter to any person, except the person to whom the same shall be directed, or person appointed to receive the same by the commanding officer. s. 8.

Or to such persons.

III. Duty on horses travelling post, and public stage coaches or carriages.

Former duties repealed.

By the 25 G. 3. c. 51. The duties granted by 20 G. 3. c. 51. and 23 G. 3. c. 63. are repealed (a); and other duties imposed, and by 44 G. 3. c. 98. the following duties shall be paid, and no others; (that is to say)

Postmasters, &c. to be licensed.

Every postmaster, or other person, in *Great Britain*, who shall let to hire any horse for travelling post *by the mile, or from stage to stage*; or, being a person usually letting horses to hire, shall let to hire *for a day or any less* period of time than 20 successive days, any horse for drawing any coach, or other carriage used in travelling post, or otherwise, by whatsoever name such carriage now is or hereafter may be called or known, shall pay annually 5s. for a license, and shall renew the same annually ten days before the end of the year, on pain of forfeiting 10l. *f. 4. 6. 7.*

Who may grant licenses.

The same to be under the management of the commissioners of the stamp duties. *f. 5. 46.* And any two of them, or persons authorized by them, may grant licenses for letting horses to hire. *f. 7.*

Not to keep more than one house or carriage with one license.

And no person shall keep more than one inn, house, or place by virtue of one license, on pain of forfeiting 20l. nor more than one coach, diligence, or other carriage, by virtue of one license. *f. 8. 47.*

Licensed person dying.

If any postmaster, innkeeper, or other person, licensed to let horses as aforesaid, shall die, his executors, administrators, or persons succeeding to such inn, house, or place, may let horses to hire, in manner aforesaid, provided the person so succeeding take out a license within 30 days after the death of such person. *f. 43.*

Discontinuing any carriage.

Provided that if any licensed proprietor of any coach, diligence, or other carriage as aforesaid, shall discontinue the use thereof, he shall give notice in writing seven days at least before he discontinues the same, and such notice shall be indorsed upon the back of his license, or bond, and from thenceforth on payment of all arrears he shall be no longer chargeable for the same. *f. 53.*

When licenses to be taken out for letting horses to hire.

By 48 G. 3. c. 98. *f. 5.* All licenses for letting horses to hire, which shall be granted between the 31st *Jan.* and the 16th *March* in any year, shall be dated on the 1st *Feb.* And all such licenses granted on any other day shall be dated on the day on which granted, and all such licenses shall continue in force from the day of the date thereof till 31st *January* following, both inclusive, and no longer.

(a) Bonds given, licenses granted, and appointment of officers in pursuance of those acts, to be in force. *f. 2, 3, 4.*

For

For every horse hired by the mile or stage to be used in travelling post shall be charged a duty of $1\frac{1}{2}$ d. for every mile such horse shall be hired to go; and for every horse hired for a day, or any less period of time, shall be charged, if the distance be ascertained, $1\frac{1}{2}$ d. a mile; and if the distance be not ascertained, 1s. 9d. for each horse; to be paid by the person hiring the same. 25 G. 3. c. 51. s. 4.

Duty on horses travelling post.

By 42 G. 3. c. 100. after January 13, 1803, any horse may be let out to hire by a licensed person for any time not exceeding 28 successive days, and every horse hired for a less time, where the distance shall not be ascertained, shall be deemed a hiring for the day: and when the period of hiring shall exceed 28 days it shall be reckoned as for two or more days, and the persons letting to hire, and the persons hiring, shall be liable to the regulations of the 25 G. 3. c. 51.

Any horse may be let to hire not exceeding 28 days, &c.

And the tickets supplied by the Stamp Office to distinguish the cases of horses hired for a day from hirings for two or more days shall be filled up and delivered to distinguish the cases of letting for 28 days, or any less period, from hirings for more than 28 days. s. 1.

The tickets to be filled up accordingly.

Persons letting horses to hire for any time exceeding 28 days shall, from Jan. 31, 1803, in a book to be provided annually, enter a memorandum of every ticket issued, and shall insert therein the day of the month, the number of horses, and the period of hiring, and the name and place of abode of the person hiring the same, and to which such person shall add the name of every servant hired with such horses, and also the description of every carriage, on penalty of 50l. s. 2.

Memorandum of every ticket for letting for more than 28 days on pain of 50l.

And every person letting to hire any servants, and carriages, shall keep an account thereof in like manner, on penalty of 50l. s. 3.

Penalty of 50l. for neglecting an account of servants and carriages let to hire.

Where horses are kept for letting to hire by the mile, or stage, to be used in travelling post, or for any period of time, and the Stamp Office duty shall be duly paid, no annual assessed duty shall be charged in respect of servants let to hire for taking care of such horses; nor more than the duties of 8l. and 8s. in respect of carriages let with such horses. But where horses shall be let to hire in any other manner than above described, or where servants or carriages shall be let without letting any horses to be used therewith, the annual assessed duties shall be assessed on the persons letting them to hire. s. 4, 5.

Where stamp-office duty is paid, no assessed duty to attach.

Persons letting to hire servants, carriages, or horses, shall annually return a list of the greatest number kept by them at any time in the year ending April 5, on penalty, for neglect, of 50l. s. 6.

Persons letting servants, &c. to return lists, on pain of 50l.

And the hirers of such servants, carriages, or horses, shall annually return a list thereof, stating from whom they were hired,

The hirer of servants, carriages, and horses, to return

lists on pain of 50l. and a surcharge.

Forms of the entries to be provided : and 50l. penalty for neglecting to deliver accounts in time prescribed.

Surveyors to be permitted to inspect.

A list of licensed persons to be sent to the tax office.

What shall be deemed travelling post.

Travelling post to be construed according to the popular acceptance of the words.

hired, on penalty of 50l. ; and in case of neglect, the assessor may surcharge the defaulter, unless the person letting to hire had been brought into charge for the duty. *s.* 7, 8.

Proper forms for entering the annual accounts of servants, carriages, and horses let to hire, are to be delivered to persons applying for them at the office for taxes, who shall yearly return the same filled up and signed to the assessor or surveyor, as the commissioners shall direct ; on a penalty of 50l. for neglecting to deliver such accounts within the time limited for making such return, *s.* 9.

Gate keepers by whom certificates shall be filed, and farmers of the duty to whom they are afterwards delivered, shall permit surveyors to inspect them. *s.* 12.

Also a list of the names and places of abode of licensed persons shall be transmitted to the Tax Office. *s.* 13.

And every horse hired by the *mile* or *stage* shall be deemed to be hired to *travel post*, although the person hiring the same do not travel several stages on a post road, or change horses, and although at the stage or place at or to which such horses shall be hired there shall not be any post-house, or any post established on such road. *s.* 42.

H. 29 G. 3. R. v. Tooley. The defendant had been convicted under 25 G. 3. c. 51. for letting to hire a horse to *Richard Gee* for the purpose of travelling post by the stage from *Totness* to *Ashburton* in *Devon*, and back again, not having a license : the sessions on appeal quashed the conviction, subject to the opinion of the court on the following case, (*viz.*) That *Gee* (an apparitor of the spiritual court) hired a horse of the appellant, who is a butcher in *Totness*, for 1s. 6d. to go to *Ashburton*, and to return back again with the horse the same day ; it also appeared that the appellant was not licensed to let horses for travelling post. Against the order of sessions it was contended that this case fell both within the letter and spirit of the act : It was letting a horse to hire *by the stage*, which is declared by the act to be an hiring to travel post, and the words are in the alternative, by the *mile or stage*. *L. Kenyon, Ch. J.* The argument which had been urged against the order of sessions would be well founded, if the act had stopped at the words, " that every horse hired by the mile or stage shall be deemed to be hired to travel post." For if the legislature had intended to subject every horse so hired to the duty, they would not have subsequently added so many nugatory words : but the act goes on to say, " that such shall be travelling post within the meaning of the act, although the person hiring the same do not travel several stages, or change horses ; and although there be not any post-house, or established post road." This proviso is adapted to cases which exist in various parts of the kingdom, and particularly in the road

road from *Chester to Bath*, great part of which is not what is termed a post-road; there persons do not travel from post-house to post-house, but *quasi* post. If a person be, in the popular sense of the words, travelling post, he is then within the meaning of the act. The popular sense of the words is to be retained, and when that is satisfied, the 42d s. provides that the circumstances there mentioned shall not exempt the person from paying the duty. But the person in this case going on his business to a market town, and back again, cannot possibly be said to be travelling post, either within the spirit or words of this act, which was evidently not intended to extend to every case of hiring a horse; and unless it did, this case is not within it. *Asbhurst and Grose, Js.* delivered their opinions to the same effect. Order of sessions confirmed. 3 T. R. 69.

In *R. v. Webber, H. 29 G. 3.* it was determined that a person who lets an horse to hire to carry a *private express*, although he only goes one stage, and returns back on the same horse, must take out a license under 25 G. 3. c. 51. s. 4. 3 T. R. 72.

But in *R. v. Cooke, H. 30 G. 3.* it was determined that the post-horse duty imposed by 25 G. 3. c. 51. is not payable for horses employed in forwarding *public expresses* on the service of government. 3 T. R. 519.

No person *unlicensed* shall let out any horse for hire either by the mile or stage, or to draw any carriage used in travelling post, or otherwise by what name soever they may be called for a day, or any less period of time, on pain of 10l. s. 6.

Penalty on persons unlicensed

Every person licensed shall, at the time of receiving his first license, give bond to the king in 50l. that he will, whenever required, re-deliver the stamp-office tickets which he shall have received, that may remain unaccounted for by him; or will pay the money due thereon; and that he will also deliver to the person authorized by the commissioners the stamp-office account so delivered to him, and make payment of all sums due to his majesty; and that he will faithfully perform all things in this act directed to be performed by him. And on breach of the condition of the bond, the commissioners may put the same in suit, and in case of judgment against the defendant, they may, if they think fit, refuse to grant him any license for the future. s. 13.

Bond to be given.

And every such licensed person shall cause the words, *Licensed to let Post Horses*, to be painted or written in legible characters, either on a sign hung out, or in some visible place in the front of his house, stables, or out offices, on pain of 5l. s. 9.

Certain words to be put up.

If such licensed person shall with such horses furnish his own chaises or carriages, he shall cause to be marked or painted,

Carriages to be marked.

painted, on the outside pannel of each door, his christian and surname, and the name of the city, town, or place of his abode, in letters at least one inch in length, and of a colour distinct from the colour of the carriage; and continue the same thereupon, as long as such carriage shall be so used. And if he shall furnish such carriage for a day or less period of time, and such carriage shall have a box or other outside seat for the driver, he shall affix upon some conspicuous part of the foot board or other part of such box or seat, a brass or tin plate, on which shall be marked or engraved his name, and place of abode as aforesaid, and replace the same as occasion shall require; and if there be no box or other outside seat for the driver, then he shall affix the same upon a conspicuous part of the pole, shaft, or splinter bar; on pain of 5l. *f. 10, 11.*

Taking off such marks.

If any person shall take off the brass or tin plate affixed as aforesaid, with an intent to evade the payment of the duty, or the sum of 1s. 9d. for each horse to be paid at the turnpike-gates, he shall forfeit 10l. *f. 21.*

Passing through a turnpike without such mark.

If any carriage, upon which a brass or tin plate is directed to be affixed as aforesaid, shall pass through any turnpike without having such brass or tin plate then affixed thereon, the driver shall forfeit 40s. *f. 22.*

Forms to be delivered to persons licensed.

And the commissioners shall, at the time of issuing the license, cause to be delivered to every person so licensed, printed or written papers, entitled, *Stamp-office weekly account*, in which shall be inserted the day of the week, and blanks left for the number of horses and miles, and the name of the town or place to which such horses shall be hired to go, and for the day of the month; and the names of the postillions or drivers, according to the following form, or such other form as they shall judge convenient;

Stamp-office weekly account.

A. B. _____ of C. _____

Names of Postillions or Drivers.

Month and Day.	Week and Day.	A. B.		C. D.		E. F.		G. H.		I. K.		L. M.		Names of places to which the horses are hired to go.	Duly.
		No. of.	Horses.	No. of	Horses.	No. of	Horses.	No. of	Horses.	No. of	Horses.	No. of	Horses.		
	Sunday.														
	Monday.														
	Tuesday.														
	Wednesday.														
	Thursday.														
	Friday.														
	Saturday.														

Stamp-office
tickets to be
delivered.

And shall also cause to be delivered a number of tickets, on which shall be printed or written the words *Stamp-office*, and also the word *Horses*, and 1, 2, 3, 4, 5, or 6, in figures, as the tickets may be intended to denote the numbers; and likewise the word *Miles*, except where the horses are hired for a day or less period of time, and then, instead of the word *Miles*, the words *For a Day* shall be inserted, and also the amount of the duty after the rate of one shilling and ninepence for each horse, according to the number of horses expressed by figures on such ticket: And if any officer employed in the execution of this act shall refuse or neglect to perform any thing by this act directed to be done by him, whereby any person may sustain any damage, he shall be liable on an action upon this statute to answer to the party grieved all damages, with treble costs. *f. 12.*

Tickets unac-
counted for how
to be valued.

To prevent disputes at what rate such tickets, which may have been delivered to any such licensed person, and may remain unaccounted for by him, such tickets shall be valued in account, and paid for in case of any deficiency at the rate of 1s. 9d. for each horse, according to the number of horses marked on such tickets, and in the receipt given by such person for the same. *f. 14.*

Tickets to be de-
livered to persons
travelling by the
mile or stage.

Every postmaster, innkeeper, or other person, licensed as aforesaid, who shall let horses to hire by the *mile or stage*, shall, previous to the using such horse or horses, receive for the use of the king from the person hiring the same the sum of one penny halfpenny for each mile such horse shall be so hired to travel, and shall at the same time deliver to the person hiring the same one or more of the said stamp-office tickets as occasion shall require; to which such post-master, innkeeper, or other person, shall add, if an innkeeper, the name of his sign or house, if not an innkeeper, his name; and shall also insert the name of the city, town, or place, where such licensed person resides; and the name of the town or place to which such horses may be hired to go; and if to *London*, the name of the street, square, or place in *London*; and, in words or figures, the month and day of the month, and the number of miles for which such horses are hired. And if any person licensed as aforesaid under pretence of there not being any turnpike on the road through which he may be hired to go, or under any other pretence, shall neglect to demand and receive the said duty of one penny halfpenny a mile from such person hiring such horse or horses, or to deliver to him the ticket filled up as above directed, he shall forfeit 10l., and moreover be chargeable for the said duty as if he had received it. *f. 15.*

Travellers to de-
liver their tickets
at the first turn-
pike.

And every traveller to whom such ticket shall have been delivered as aforesaid, if he shall pass through any turnpike, shall

shall deliver the same at the first turnpike toll-bar or bridge to which he shall come to the toll-gate keeper there who shall demand receive and file the same; and if any traveller so going post shall have neglected to take such ticket, or shall not deliver the same, he shall, before the horses be permitted to pass, pay to the gate-keeper for every such horse the sum of one shilling and nine-pence, and the gate-keeper shall not permit such horses to pass, till he shall have paid the same, or produced such ticket as aforesaid. *f. 16.*

No traveller shall pay for more miles than is expressed upon such ticket; and if any such licensed person shall insert in such ticket the name of any other town or place than that to which the horses shall be hired to go, or shall fill up a less number of miles than charged to such traveller, he shall forfeit 10l.; and the commissioners may refuse him a license in future. *f. 17.*

Where any ticket shall be issued with the number of miles expressed thereon, and the person issuing the same shall charge the traveller a specific sum by the *stage*, and not after any certain rate *per mile*, he shall be accountable for one fourth part of the money so received by him as for the duty, and shall in that case express in the said ticket the money charged to such traveller, and enter in the weekly account one fourth part of the money so received, and pay the same to the collector, on pain of forfeiting 10l. *f. 18.*

Every person so licensed as aforesaid, who shall let to hire any horse by the *day* or less period of time, shall, previous to such horse being used, demand and receive, for the use of the king, from the person hiring the same, one penny halfpenny a mile where the distance shall be ascertained, and where not ascertained, then one shilling and nine-pence for each horse; and shall at the same time deliver to the person so hiring such horse one or more of the stamp-office tickets aforesaid, with the words *For a day* inserted thereon, as occasion shall require; to which such person shall add, if he is an innkeeper, the name of his sign or house, if not an innkeeper, his name and the name of the city, town, or place where such licensed person resides, and the month and day of the month. And in default thereof he shall forfeit 10l. and moreover be chargeable with the said duty as if he had received it. *f. 19.*

Every person to whom such *Day ticket* shall be delivered, if he shall pass through any turnpike in the course of the day for which such ticket shall have been given, shall at the first turnpike through which he shall pass deliver to the gate-keeper there the said *Day ticket* given to him when he hired the horses, which the gate-keeper shall receive and file, and in return for such *Day ticket* shall deliver to such person a ticket called an *Exchange ticket* to be supplied from the stamp-office,

Postmasters
falsely-filing up
tickets.

Charging by the
stage and not by
the mile.

Ticket to a per-
son travelling by
the day.

Day ticket to be
exchanged at the
first turnpike.

which shall contain the name of the country in which the turnpike shall be, and the words *Received Day ticket*, and also the number of horses in the figures expressed in such *Day ticket*, together with the name of the city town or place at which such *Day ticket* was given, and some mark or number, denoting the particular day on which such *Exchange ticket* was issued, in printed or written letters or figures; which said *Exchange ticket* the said toll-taker shall deliver to such person *gratis*, in return for such *Day ticket* so left with him as aforesaid; which said *Exchange ticket* so delivered shall be shewn by such person at every turnpike through which he shall afterwards pass on that day. And if any person, to whom such *Day ticket* shall be delivered, shall not leave the same at such first turnpike as aforesaid, or shall refuse to shew the ticket so given to him in exchange at every turnpike through which he shall on that day pass; he shall pay for every horse then used by him the sum of one shilling and nine-pence before such horse shall pass, and the gate-keeper shall demand and retain the same to his own use; and where the name of the owner of the carriage shall be marked on the foot board or seat, or pole, shaft, or splinter-bar as aforesaid, then such gate-keeper shall not permit such horse or horses to pass until such travellers shall have paid the same, or left such *Day ticket* or produced such *Exchange ticket* as aforesaid. *s. 20.*

Tickets for less
than two days.

To prevent evasions in filling up the said tickets where the horses are hired to return in less than two days, and the distance shall be ascertained, it is enacted, that where any postmaster, innkeeper, or other person shall let to hire any horse or horses as aforesaid to return in less than two days, and the number of miles instead of words *For a day*, shall be inserted in such ticket, such licensed person shall fill up the name of the place to which such horses are hired to go, and the true number of miles, ascertaining the distance both going and returning from the place expressed in such ticket; and in default thereof, he shall forfeit 10*l.* and moreover shall be chargeable with the said duty. *s. 23.*

Hiring horses for
two days or
more.

And every person, when he lets to hire for two days or more any horses for drawing a carriage on any public road, shall deliver to the person travelling in such carriage or to the driver thereof a note or certificate, to be supplied from the stamp-office, on which shall be engraved or printed *Hired for two or more days*, adding thereto the day of the month, the name of the place of his abode, and the number of days for which the said horses shall be hired; and the name and place of abode of the person hiring the same; and the person travelling in such carriage, or the driver, shall, at the first turnpike, deliver the said certificate, which the gate-keeper shall receive, and file, and in return shall deliver *gratis* a ticket called

called *The Check Ticket*, to be supplied from the stamp-office, which shall contain the name of the county in which such turnpike shall be, and the words *certificate delivered*, and also the name of the town or place where such certificate issued, together with some mark or number, denoting the day on which such *Check Ticket* was issued, in letters or figures; which said *Check Ticket* shall be shewn to the gate-keeper, at every turnpike through which the said horses shall pass; and in default thereof, every such traveller shall pay for every horse 1s. 9d. before he be permitted to pass any such turnpike, which the gate-keeper shall retain to his own use. *f. 24.*

And if any postmaster, innkeeper, or other person, shall, in such certificate, insert any false or fictitious name or place of his abode, or wilfully insert therein any fictitious name or place of abode, of the person hiring such horses; or shall in letting out the same by any device or collusion pretend to let out his horses for a longer time than the same were actually hired, with intent to evade the duty, he shall forfeit 20l. and the commissioners may refuse him a licence in future. *Id.*

Penalty on day
livering false
certificates.

Provided that every horse hired for the purpose of drawing any carriage as aforesaid for any less time than two days shall be deemed, for the purposes of this act, to be hired for a day, and shall be subject to the same regulations as horses hired for a day. *f. 25.*

Horses hired for
less than two
days, to be
deemed hired
for a day.

To prevent persons evading the duties upon horses hired by the mile or stage, under pretences of letting such horses for a day, or less time, no person, at whose house or other place any traveller shall change horses, shall let to hire any horses to such traveller, in any other manner than by the mile or stage; on pain of 10l. *f. 32.*

No horses to be
let to travellers
but by the mile
or stage.

And to prevent obstructions to travellers, from the name of the town or place to which such horses may be hired to go, being inserted in the ticket, as aforesaid, any licensed person, at whose house any traveller shall apply to change horses, if he cannot furnish horses to convey such traveller on his journey, shall issue to such traveller requiring the same a fresh ticket, properly filled up, and receive the duty thereon, and charge himself therewith, in the same manner as if such horses had been hired from himself. *f. 33.*

Where innkeepers
cannot furnish
horses.

And to prevent evading the payment of the duty, by permitting carriages conveying persons post to be drawn by horses which have paid the duty for the stage, under pretence of such horses being upon the return home, every person licensed, who shall take the hire for such horses by the mile, or from stage to stage, shall be considered as the person to whom the duties shall be paid, and shall be accountable for the same as if he were the actual proprietor of the horses, although the same belong to any other licensed person. *f. 31.*

Persons taking
the hire for
horses, shall be
accountable for
the duty.

Every

Gate-keeper neglecting his duty.

Every gate-keeper who shall have received any of the *Day tickets*, or *certificates*, for two or more days as aforesaid, and shall refuse to give *gratis* to any traveller the ticket to be given in exchange; or who shall deliver the *Exchange ticket* without having received in lieu thereof the stamp-office *Day ticket*, or *certificate*, or who shall make any alteration in any of the tickets hereby directed to be filed by him, after such tickets have come to his custody; or shall deliver any of the tickets directed to be filed by him to any person other than the person duly authorized to receive the same;—shall forfeit 40s. *s. 20.*

Account.

Every person so licensed shall insert, in the account so delivered to him from the stamp office, the number of horses used in travelling post, and the number of miles for which they shall have been so used, and the name of the town or place to which such horses were hired to go, and also the number of horses let to hire for a day or less time, and also the certificate so issued by them as aforesaid, and the day of the month on which the said day tickets were used, or such certificate was issued, together with the names of the postilions or drivers; which account shall be signed by such person licensed, and witnessed by the hostler, or other servant employed in getting ready such horses; and shall be open, when required, to the inspection of any person authorized under hand and seal by the commissioners. And such person licensed, residing in *London* or *Westminster*, shall, on the first *Tuesday* or *Wednesday* in every month, and such other person residing within five miles of the *head office*, or *within the bills*, shall on the first *Thursday* or *Friday* in every month, or at such other times as may be appointed by the commissioners, on public notice given in the *Gazette*, deliver at the head office the accounts herein-before directed for the four weeks ending on the *Saturday* preceding such day of delivery; and shall at the same time pay the sum due thereon; on pain of 10l. for every default in not delivering such account and double the amount of the money so due for the non-payment thereof. *s. 27.*

Person not *residing within the bills* shall, on the like pain, at the times and places to be mentioned at the foot of the first license granted to him when the same shall be delivered; and afterwards at the foot of every receipt given to him by the collector for the money paid in by him, attend, and there deliver in and pass his account for the week ending on the *Saturday* preceding, and pay the money received by him to the collector: Provided, that he shall not be compelled to travel for payment of the said duties, or other cause concerning the same, if he live in a market town, out of the said town, or if he live out of a market town, then to no other place than the nearest market. *s. 28. 40.*

And

And such person shall enter in his weekly account the tickets or certificates issued by him on the day on which the same shall be issued : And if he shall date any of the Posting tickets, or Day tickets, or certificates, by him delivered, in any other manner than the same shall, at the time of such delivery, be entered in his weekly account, he shall forfeit 40s. *f. 29.*

Postmasters, &c.
to enter tickets,
&c. in their
weekly account.

Every person so licensed, who shall be guilty of any concealment or other contrivance to defraud his majesty of the said duties, or any part thereof, shall forfeit 50l. ; and the commissioners, if they think fit, may refuse to grant him any license for the future. *f. 30.*

Licensed persons
defrauding his
majesty, forfeit
50l.

Every person licensed shall, at the time of delivering his account at the head office, or the collectors respectively, make oath to the truth thereof, in the form following ;

Accounts to be
delivered on
oath.

I A. B. do swear that the several weekly accounts now by me delivered of the duties arising upon horses, which I have let for the purpose of travelling post, or otherwise, from the — day of — to the — day of — as far as the same have been entered and kept by me, are fair, just, and true accounts ; and that I have charged therein the duty for the true number of miles, received for the use of his majesty from travellers who have hired horses from me, and that I have inserted therein an account of all the day tickets, notes, and certificates issued by me ; and as far as such accounts have been entered and kept by any other person or persons I verily believe the same to be true. So help me God. *f. 44.*

And for the encouragement of and as a compensation to the gate-keeper for his trouble, he shall receive from the collector or other person to whom he shall deliver the Day tickets and Posting tickets by him received, after the rate of 3d. for every pound which the duties upon any such tickets shall amount to ; which allowance shall be over and above the money retained by him in respect to travellers not having delivered the tickets to him as aforesaid. *f. 34.*

Reward to the
gate-keeper.

Provided, that for the said compensation he bring the said tickets, i. within five miles of the head office then to the said office, or such other place within the bills as the commissioners shall appoint ; elsewhere, to such places and at such times as the collector appointed to collect such duties shall require ; and deliver up such tickets to the receiver general or collector to be appointed as aforesaid. *f. 35.*

Gate-keeper to
deliver up
tickets.

But if he shall not bring the said stamp-office tickets at the times and places aforesaid, he shall, upon demand at the turnpike-gate, deliver the same to the collector appointed by the commissioners ; on pain of 5s. for every ticket. *f. 36.*

Penalty for ne-
glect of duty.

If he shall wilfully neglect to ask and demand or refuse to receive

receive any ticket hereby directed to be delivered to him, or to file the same; he shall for every offence forfeit 5*l.* *f.* 37.

And if he shall fraudulently accept less than he is authorized to demand and receive, he shall in like manner forfeit 20*s.* *f.* 38.

Commissioners
may erect gates.

And whereas there are many public roads on which there are no turnpikes, so that such tickets as aforesaid cannot be received and filed, as directed by this act, it is enacted that the commissioners may erect bars and gates across any public road for the receipt of such tickets, and place persons thereat, who shall have the same power, and shall be liable to the same penalties, as turnpike men. *f.* 39.

Reward to per-
sons licensed.

The receiver general at the head office, and the collectors appointed elsewhere, shall make an allowance of 3*d.* a pound to the several persons licensed to let horses for hire, by the mile, stage, or day, for all money by them paid in respect of the duties on horses so hired as aforesaid, and they may deduct the same in their account accordingly. *f.* 54.

Hackney
coaches ex-
empted.

Nothing in this act shall extend to any horses used in licensed hackney coaches, employed to go to no greater distance than ten miles from *London* or *Westminster* and the suburbs thereof. 25 *G. 3. c.* 51. *f.* 41.

Forging tickets.

If any person shall forge or counterfeit any ticket or certificate, or utter any forged or counterfeited ticket or certificate as true with intent to defraud his majesty of the duties; he shall forfeit 50*l.* *f.* 55.

Penalties.

All pecuniary penalties on this act shall be distributed (if sued for within six calendar months) half to the king, and half (with full costs) to him who shall inform and sue: If not sued for within six months, they shall belong to the king. *f.* 56. 58.

And such of the said pecuniary penalties, which shall amount to 50*l.* or more, shall be sued for in the courts at *Westminster*. *f.* 57.

If under 50*l.* they may be recovered before one justice residing near to the place where the offence was committed; who shall, upon any information exhibited or complaint made, summon the party accused, and also the witnesses on either side, and, on due proof made, either by confession or oath of one witness, may give judgment therein, and issue his warrant to distrain the offender's goods, which, if not redeemed in six days, and if sufficient distress cannot be found, the justice shall commit him to prison for six months, unless the penalty shall be sooner paid. *f.* 59.

Witnesses not
appearing.

If any person shall be summoned as a witness to give evidence before such justice, either on the part of the prosecutor or of the person accused, and shall neglect or refuse to appear, without a reasonable excuse to be allowed by such justice,

justice, or appearing shall refuse to be examined upon oath he shall forfeit 40s. to be levied and paid as the other penalties herein-before directed. *f. 60.*

And the justice, if he see cause, may mitigate the penalty, reasonable costs and charges of the officers and informers being allowed over and above the mitigation, and so as it do not reduce the penalty to less than one half, over and above the said costs and charges. *f. 63.*

Penalties may be mitigated.

The conviction may be in the form or to the effect following, *mutatis mutandis.* **Conviction.**

Be it remembered that on the ——— day of ——— in the year of our Lord ——— or ——— in the county of ——— A. I. came before me I. P. esquire, one of his majesty's justices of the peace for the said county, residing near the place where the offence was committed, and informed me that A. O. of ——— on the ——— day of ——— now last past, at ——— in the said county, did [here set forth the fact for which the information is laid]: Whereupon the said A. O. after being duly summoned to answer the said charge, appeared before me on the ——— day of ——— at ——— in the said county, and having heard the charge contained in the said information, declared he was not guilty of the said offence :

[Or, did not appear before me pursuant to the said summons :]

But the same being fully proved upon the oath of A. W. a credible witness, it manifestly appears to me that the said A. O. is guilty of the offence charged upon him in the said information : I do therefore hereby convict him of the offence aforesaid, and do declare and adjudge that he the said A. O. hath forfeited the sum of ——— of lawful money of Great Britain for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided. Given under my hand and seal the ——— day of ———. *f. 62.*

If any person shall think himself aggrieved by the determination of the justice, he may (on giving security to the amount of the value of the penalty, together with such costs as shall be awarded in case the judgment shall be affirmed,) appeal to the next sessions; who may summon and examine witnesses upon oath; and if the judgment shall be affirmed, they may award him to pay costs, as to them shall seem meet. *f. 59.* **Appeal.**

Provided, that if the next sessions shall fall within six days after such conviction, the person convicted, if he think fit, giving such security as aforesaid, may appeal to the next subsequent sessions. *Id.*

IV. Of public stage coaches and other carriages.

There are some regulations peculiarly attached to stage coaches, and it is therefore thought best to bring them together in a separate section.

By 44 G. 3. c. 98. *sed. A.*

Every person who shall keep any coach, berlin, landau, dalash, chaise marine, chaise, chair, or other carriage with two or more wheels, by whatever name the same now is or hereafter may be called, to be employed as a public stage coach, or carriage, for the purpose of conveying passengers for hire, shall take out a licence for each such carriage, which shall be kept or employed for carrying at one time not more than four inside passengers, (children in lap excepted,) and pay therefore yearly
If it be kept for carrying more at one time than four, but not more than six inside passengers (children in lap excepted,) for each such carriage, yearly

For carrying more than six but not more than eight, (except as before,) yearly for each such carriage
More than eight but not more than ten, (except as before,) for each such carriage, yearly
More than ten, (except as before,) for each such carriage, yearly

Stages, &c. to be entered in the licence.

And such person shall at the time of receiving such licence declare from what place and to what place such carriage is intended to be used, distinguishing the number of miles between the two extreme towns or places such carriage is intended to go, and the number of journeys the same is intended to be used, either in the day or in the week, that the same may be inserted in such licence, and such person shall give bond to his majesty in and to the sum the duty for the journeys inserted in such licence for one month would amount unto, at the option of the commissioners, for accounting for and paying such sums as may be due for such journeys.

The 28 G. 3. c. 57. is now repealed by the 50 G. 3. c. 48. but it may not be impertinent to state that it was determined that one might be convicted on this statute as the driver of a stage coach for permitting and suffering more than the proper number of persons to go upon the roof thereof, although he were not stated to be a driver employed by the owner, and although he did not appear when summoned before the magistrate, in which case the offence

tion of the act directs that the owner shall be liable to the penalty thereby laid on such driver, *R. v. Barber*, 3 E. R. 504.

By the 50 G. 3. c. 48. s. 1. — The 28 G. 3. c. 57. s. 30 G. 3. c. 36. and 46 G. 3. c. 136, are severally repealed, and various new regulations are enacted.

By s. 2, it is enacted, that from the passing of this act, any coach, berlin, landau, chariot, diligence, calash, chaise mame, or other carriage with four or more wheels, by what name soever now or hereafter called, employed as a publick stage coach or carriage, for the purpose of conveying passengers for hire to and from different places in Great Britain, and drawn by four or more horses, shall be allowed to carry ten outside passengers and no more, exclusive of the coachman, but including the guard, where there is a guard, and that one passenger and no more shall be allowed to sit upon the box with the coachman, and three of such passengers on the front of the roof, and the remaining six behind, as may be most safe and convenient for them. Provided always, that no such passenger shall sit on the luggage, or that part of the roof allotted for the same; and that all such carriages, drawn by two or three horses, shall be allowed to carry outside passengers and no more, exclusive of the coachman, and that all stage coaches called long coaches or double bodied coaches, shall be permitted to carry eight outside passengers and no more, exclusive of the coachman, but including the guard, where there is a guard, under such fines or penalties as are by this act imposed, in cases where more outside passengers are carried than are allowed by this act; to be imposed and levied upon the owner or proprietor, or any one or more of them, or any person driving the same, in the manner after mentioned: Provided always, that no child in the lap, or under seven years of age, shall be counted as one of such number, unless there be more than one, and if more than one, that two of such children shall be accounted equal to one grown person, and so on in the same proportion; and that no person paying as an outside passenger shall be permitted to sit as an inside passenger, unless with the consent of one of the inside passengers at the least, and next to whom such out outside passenger shall be placed: And provided also, that where the construction is peculiarly wide or commodious, and being so found shall be duly licensed for that purpose, four outside passengers instead of three shall be allowed to sit on the front of such coach or other carriage: but outside passengers shall never exceed ten in all.

By s. 3, After March 1, 1811, no driver, owner, or proprietor of any such carriage, going or travelling for hire, shall

Limiting the number of persons to be carried by stage coaches as outside passengers, &c.

After March 1, 1811, neither luggage nor outside passengers shall be carried

if the coach be more than the height herein mentoned.

Penalty.

No luggage, exceeding a certain height to be carried on the roof of any coach.

Penalty.

Packages to be placed so as no passenger shall sit thereon.

shall permit in any manner any luggage to be carried on the roof, or any person to go as an outside passenger on or about the outside of any such coach or other carriage, the top of which shall be more than eight feet nine inches from the ground, or the bearing of which on the ground shall be less than four feet six inches from the centre of the track of the right or off wheel, to the centre of the track of the left or near wheel, under the penalty of 5/- for each offence, to be recovered and applied in the same manner as any penalty for more outside passengers than are allowed by this act can be recovered and applied.

By s. 4. No driver, owner, or proprietor of any mail coach or other carriage as above described, going or travelling for hire, shall carry or permit any parcels, or luggage whatever, exceeding two feet in height, to be conveyed on the roof if drawn by four or more horses; and where drawn by two or three horses, then such luggage not to exceed eighteen inches above the roof; and every such driver so offending, and any owner or proprietor thereof, where such driver is not known or cannot be found, being convicted of such offence, either by his own confession, the view of a justice or other magistrate, or the oath of one witness, before any justice or other magistrate acting in and for the county &c. or place where any offence shall be committed, shall forfeit 5/- for every inch above two feet or eighteen inches respectively above allowed; and in case the driver so offending shall be the owner, he shall forfeit 10/- for every inch above the spaces respectively above allowed; and in default of payment of the said penalties respectively, the person and persons so offending shall be committed to the common gaol or house of correction of the county &c. where such offence shall have been committed, for two months, unless such penalties be sooner paid; provided always, that all packages herein before described, shall be so placed on the roof as that no passenger shall sit thereon, under the penalty of fifty shillings for each offence, to be paid by each such passenger, and to be recovered and applied as the other penalties imposed by this act, and the division or space on the top allotted for luggage, shall be distinctly separated from the other part of the top by some railing or otherwise; and in case any such driver or owner or part owner, when required so to do, shall refuse to permit the said carriage and luggage to be measured by any justice, magistrate, constable, surveyor of any highway or turnpike road, inspector of coaches duly authorized by the commissioners of stamps, or passenger, he shall forfeit the like penalty, to be recovered and applied as herein after specified.

And

And by s. 5. It shall be lawful to carry any luggage, parcel or other package in manner herein-before provided for on the roof of any coach or carriage above described of a greater height than two feet; provided such luggage, parcel or other package be not a greater height from the ground, including the height of such coach, than ten feet nine inches.

Luggage may be carried of a greater height than two feet, if not more than 10 feet 9 inches from the ground.

And by s. 6. In every license to be taken out by any person who shall keep any carriage to be employed as a public stage coach or other carriage above described, for the purpose of conveying passengers for hire as aforesaid, shall be specified the number of outside passengers to be carried on or about the outside of such coach or other carriage above described, as well as the number of inside passengers to be carried therein as now by law directed; and no such license shall in future be granted for more than the number of inside and outside passengers in all allowed by law, and such license shall contain the name or names, and the places of abode of every individual to whom such coach or other carriage shall belong, a copy of which license shall be accessible at the board or office where such license is issued, to any person or persons applying either for a copy of or for the perusal of the same.

Number of passengers permitted to be carried to be specified in the licence ;

By s. 7. Every person who shall be duly licensed to keep any such coach or other carriage above described, for the purpose aforesaid (mail coaches always excepted) shall cause to be painted within six months from the passing of this act, on the outside of each door of each such coach or other carriage above described, or on some other conspicuous part thereof, in legible characters of at least one inch in length, and in a different colour from the ground on which the same is painted, and in words at length, the number of outside passengers which the license obtained for such carriages respectively shall specify or express (as well as and in like manner as the number of inside passengers as now by law directed) together with the name or names of the person or persons, or the company of proprietors or firm to whom it shall belong: but any board of commissioners by whom such license shall be granted, may require instead of such inscription that a plate of brass or other metal shall be fixed on the side of each such coach or other carriage, with the name or names of the person or persons, or the company of proprietors or firm, and a distinct number for each, to the end that the owner and driver of such shall be known, and if any person, company of proprietors or firm, shall be licensed to keep more than one coach, every one of them shall have several numbers or other marks of distinction, in the same manner as if they did belong

and to be painted on the doors of the coach.

Commissioners for granting licences, may order a brass plate on the side of each coach, with the owner's name &c. instead of the above inscription.

Penalty.

to several persons; and if any person shall blot out, obliterate, alter or deface the number, figure or mark of distinction appointed by the said commissioners, he shall forfeit 5*l*. for every such offence: and if any person shall employ any such carriage as aforesaid, for such carrying without being licensed so to do, or without having the said words and number and name or names painted on the outside of each door of such carriage, or in such other conspicuous part thereof, and in such manner as is herein-before directed; or shall at any time carry more outside passengers than shall be specified or expressed in the license for using such coach or other carriage, and by the words so painted on the outside of such doors or other conspicuous part of such carriage, or the numbered plate, every person so offending shall for every offence forfeit 10*l*. for each outside passenger beyond the number hereby allowed, and double that sum if the driver or coachman be also owner or part-owner, to be recovered and applied as any other penalty imposed by this act, and every such inscription or plate, as the case may be, to be considered sufficient evidence of the parties to whom such coach &c. above enumerated doth belong, being owner or proprietor thereof.

Owners of stage coaches shall be liable to penalties in case drivers cannot be found.

And by 7. 8. in case the driver of any such coach &c. above described, going or travelling for hire, and conveying a greater number of persons in any manner in the inside or on or about the outside thereof, than are allowed by this act, or permitting more than one passenger to sit upon the box (which box shall be so constructed as not conveniently to hold more than one passenger besides the coachman,) shall not be known, or being known cannot be found, in every such case the owners or proprietors or any of them, shall be liable to all such fines and penalties as if any of them had been the driver only, at the time that such offence was committed: provided always, that if any such owner or proprietor shall make out to the satisfaction of the justice or other magistrate above mentioned before whom any such information shall be laid, by sufficient evidence not resting on his own testimony, that the offence was committed by the driver without his knowledge, and that no profit or benefit directly or indirectly has accrued, or could or would have accrued to such owner or proprietor therefrom, but that such offence was committed against this act by such driver in violation of his duty to the owner or proprietor, as well as against the provisions of this act, such justice or other magistrate, shall discharge the owner or proprietor from such penalty and expence, and levy the same upon the driver only, when found; and such driver shall be liable to the penalty for which he is liable in consequence of such offence

Owners relieved from penalties in certain cases.

Printed by J. G. & J. H. B. 113, 114, 115, 116, 117, 118, 119, 120, 121, 122, 123, 124, 125, 126, 127, 128, 129, 130, 131, 132, 133, 134, 135, 136, 137, 138, 139, 140, 141, 142, 143, 144, 145, 146, 147, 148, 149, 150, 151, 152, 153, 154, 155, 156, 157, 158, 159, 160, 161, 162, 163, 164, 165, 166, 167, 168, 169, 170, 171, 172, 173, 174, 175, 176, 177, 178, 179, 180, 181, 182, 183, 184, 185, 186, 187, 188, 189, 190, 191, 192, 193, 194, 195, 196, 197, 198, 199, 200, 201, 202, 203, 204, 205, 206, 207, 208, 209, 210, 211, 212, 213, 214, 215, 216, 217, 218, 219, 220, 221, 222, 223, 224, 225, 226, 227, 228, 229, 230, 231, 232, 233, 234, 235, 236, 237, 238, 239, 240, 241, 242, 243, 244, 245, 246, 247, 248, 249, 250, 251, 252, 253, 254, 255, 256, 257, 258, 259, 260, 261, 262, 263, 264, 265, 266, 267, 268, 269, 270, 271, 272, 273, 274, 275, 276, 277, 278, 279, 280, 281, 282, 283, 284, 285, 286, 287, 288, 289, 290, 291, 292, 293, 294, 295, 296, 297, 298, 299, 300, 301, 302, 303, 304, 305, 306, 307, 308, 309, 310, 311, 312, 313, 314, 315, 316, 317, 318, 319, 320, 321, 322, 323, 324, 325, 326, 327, 328, 329, 330, 331, 332, 333, 334, 335, 336, 337, 338, 339, 340, 341, 342, 343, 344, 345, 346, 347, 348, 349, 350, 351, 352, 353, 354, 355, 356, 357, 358, 359, 360, 361, 362, 363, 364, 365, 366, 367, 368, 369, 370, 371, 372, 373, 374, 375, 376, 377, 378, 379, 380, 381, 382, 383, 384, 385, 386, 387, 388, 389, 390, 391, 392, 393, 394, 395, 396, 397, 398, 399, 400, 401, 402, 403, 404, 405, 406, 407, 408, 409, 410, 411, 412, 413, 414, 415, 416, 417, 418, 419, 420, 421, 422, 423, 424, 425, 426, 427, 428, 429, 430, 431, 432, 433, 434, 435, 436, 437, 438, 439, 440, 441, 442, 443, 444, 445, 446, 447, 448, 449, 450, 451, 452, 453, 454, 455, 456, 457, 458, 459, 460, 461, 462, 463, 464, 465, 466, 467, 468, 469, 470, 471, 472, 473, 474, 475, 476, 477, 478, 479, 480, 481, 482, 483, 484, 485, 486, 487, 488, 489, 490, 491, 492, 493, 494, 495, 496, 497, 498, 499, 500, 501, 502, 503, 504, 505, 506, 507, 508, 509, 510, 511, 512, 513, 514, 515, 516, 517, 518, 519, 520, 521, 522, 523, 524, 525, 526, 527, 528, 529, 530, 531, 532, 533, 534, 535, 536, 537, 538, 539, 540, 541, 542, 543, 544, 545, 546, 547, 548, 549, 550, 551, 552, 553, 554, 555, 556, 557, 558, 559, 560, 561, 562, 563, 564, 565, 566, 567, 568, 569, 570, 571, 572, 573, 574, 575, 576, 577, 578, 579, 580, 581, 582, 583, 584, 585, 586, 587, 588, 589, 590, 591, 592, 593, 594, 595, 596, 597, 598, 599, 600, 601, 602, 603, 604, 605, 606, 607, 608, 609, 610, 611, 612, 613, 614, 615, 616, 617, 618, 619, 620, 621, 622, 623, 624, 625, 626, 627, 628, 629, 630, 631, 632, 633, 634, 635, 636, 637, 638, 639, 640, 641, 642, 643, 644, 645, 646, 647, 648, 649, 650, 651, 652, 653, 654, 655, 656, 657, 658, 659, 660, 661, 662, 663, 664, 665, 666, 667, 668, 669, 670, 671, 672, 673, 674, 675, 676, 677, 678, 679, 680, 681, 682, 683, 684, 685, 686, 687, 688, 689, 690, 691, 692, 693, 694, 695, 696, 697, 698, 699, 700, 701, 702, 703, 704, 705, 706, 707, 708, 709, 710, 711, 712, 713, 714, 715, 716, 717, 718, 719, 720, 721, 722, 723, 724, 725, 726, 727, 728, 729, 730, 731, 732, 733, 734, 735, 736, 737, 738, 739, 740, 741, 742, 743, 744, 745, 746, 747, 748, 749, 750, 751, 752, 753, 754, 755, 756, 757, 758, 759, 760, 761, 762, 763, 764, 765, 766, 767, 768, 769, 770, 771, 772, 773, 774, 775, 776, 777, 778, 779, 780, 781, 782, 783, 784, 785, 786, 787, 788, 789, 790, 791, 792, 793, 794, 795, 796, 797, 798, 799, 800, 801, 802, 803, 804, 805, 806, 807, 808, 809, 810, 811, 812, 813, 814, 815, 816, 817, 818, 819, 820, 821, 822, 823, 824, 825, 826, 827, 828, 829, 830, 831, 832, 833, 834, 835, 836, 837, 838, 839, 840, 841, 842, 843, 844, 845, 846, 847, 848, 849, 850, 851, 852, 853, 854, 855, 856, 857, 858, 859, 860, 861, 862, 863, 864, 865, 866, 867, 868, 869, 870, 871, 872, 873, 874, 875, 876, 877, 878, 879, 880, 881, 882, 883, 884, 885, 886, 887, 888, 889, 890, 891, 892, 893, 894, 895, 896, 897, 898, 899, 900, 901, 902, 903, 904, 905, 906, 907, 908, 909, 910, 911, 912, 913, 914, 915, 916, 917, 918, 919, 920, 921, 922, 923, 924, 925, 926, 927, 928, 929, 930, 931, 932, 933, 934, 935, 936, 937, 938, 939, 940, 941, 942, 943, 944, 945, 946, 947, 948, 949, 950, 951, 952, 953, 954, 955, 956, 957, 958, 959, 960, 961, 962, 963, 964, 965, 966, 967, 968, 969, 970, 971, 972, 973, 974, 975, 976, 977, 978, 979, 980, 981, 982, 983, 984, 985, 986, 987, 988, 989, 990, 991, 992, 993, 994, 995, 996, 997, 998, 999, 1000.

force, shall be committed to the common gaol or house of correction of the county &c. and where such offence shall have been committed, there remain for not exceeding six months, nor less than three months, at the discretion of the justice or other magistrate, by or before whom he shall be convicted.

And by §. 9. any summons issued by any justice or other magistrate above mentioned, commanding any driver, owner or proprietor of any such coach or other carriage, or any person or persons or company of proprietors, or firm of any company, to whom such coach or other carriage shall belong, to appear before him at such time or place as to such justice or other magistrate above mentioned shall seem meet, for any offence committed against this act, or a copy thereof, shall be deemed to be sufficiently served, if either the original or a copy of such summons be left with the known or acting book-keeper for such coach or other carriage, in any town or place into or through which any driver offending as aforesaid shall drive such coach or other carriage.

Summons left with book-keeper &c. to be good service.

By §. 10. the driver of any such coach, mail coach or other carriage going or travelling for hire, stopping at any place or places where assistance can be procured, shall not quit his horses or box until a proper person shall be employed to hold the horses or fore-horses whilst such carriage stops, so as to prevent them from running away, and shall have actual hold of such horses, and such person shall hold the same until the driver has returned to his box, or until the postboy who rides one of the horses is again mounted, and has in his hands the reins for guiding the said horses, and if such driver or such person shall neglect so to do, he or they being duly convicted thereof by his or their confession, the view of a justice or other magistrate above mentioned, or by the oath of one witness taken before any justice or other magistrate above mentioned, shall forfeit not less than 10s. nor more than 5s. for each offence: provided nevertheless, that nothing in this section or clause contained shall extend, or be construed to extend to hackney coaches being drawn by two horses only.

Penalty on drivers leaving their horses or neglecting their duty.

And by §. 11. in case the driver of any such coach, mail coach or other carriage or the person acting as guard, shall, by neglect or misconduct (unavoidable accidents always excepted) endanger the safety of the passengers in their lives, their limbs or their property, or shall not give due care to any other property with which they or either of them may be entrusted; or if any driver of any mail coach or any guard shall loiter on the road or wilfully mispend or lose any time so as to retard the arrival of his majesty's mails at the next stage; or if the driver of any mail coach shall not in all possible cases convey such mails at the speed of any such a number of miles an hour as are fixed by the post-

Penalty on drivers incapable of driving or so intoxicated as to be incapable of doing otherwise, or retarding the mails, or not accounting to their employers, &c.

any manner endanger the persons or property of the passengers, or the property of the owners or proprietors of such carriage (unavoidable accidents always excepted,) every such coachman or person as aforesaid so offending, shall for every such offence forfeit not exceeding 50s. nor less than 5s. to be levied and applied as the other penalties imposed by this act.

Penalties how
to be recovered.

By s. 16. In all cases where any penalties and forfeitures incurred for any offence committed against this act, shall and may be recoverable before one or more justices of the peace, or before any other magistrate above mentioned, every such justice or other magistrate above mentioned is hereby required, to administer an oath, and upon proof of any such offence, shall give judgment for the forfeiture or penalty incurred, and for the reasonable costs and charges of the prosecution; and if the same shall not be paid, shall commit the person so convicted to the common gaol or house of correction for the said county &c. for not exceeding three months nor less than one month, at the discretion of the said justice or other magistrate above mentioned, unless such person shall enter into such recognizance with such surety before such justices or justice, or other magistrate as herein before mentioned.

Justices may
mitigate penal-
ties.

And by s. 17. If any such justice or other magistrate above mentioned, before whom any person shall have been convicted for any offence against this act, shall for cause mitigate such penalty, he may do so to any sum not exceeding one moiety of the penalty incurred, over and above all reasonable costs and charges incurred in the prosecution, and one half either of the whole or of the moiety of such penalty, with the said costs and charges, shall be paid to the informer for his own behoof, or be at his disposal for public purposes (except in the special cases above provided for) and the other half shall be paid to the justices of the roads where such offence is committed, who are hereby required in consideration thereof to direct their surveyors to watch over the due execution of this act, and the several roads to the superintendence of which they are respectively appointed.

Penalties how to
be applied,

Guard firing off
his arms, except
for defence, shall
forfeit 50s.

By s. 18. If any person going or travelling as a guard on any coach, mail coach, or other carriage above described, shall fire off the arms he is entrusted with, either while such coach or other carriage is going or standing, or going through or standing in any town, village, or hamlet for the defence of such coach or other carriage, or the passengers therein, every such person shall for every such offence forfeit 50s. to be recovered and applied as the other penalties imposed by this act.

By s. 19. In case any person commit any offence against this act, for which no specific penalty shall have been provided, he shall forfeit at the discretion of one justice, or of any other magistrate above mentioned, not exceeding 10*l*. nor less than 5*os*. upon being convicted thereof, on the oath of one witness, before any justice or other magistrate above mentioned, acting in and for the county &c. where the offence shall have been committed, or by any other justice of the peace residing in any county &c. in which the offender shall then actually be present, upon full proof being exhibited before such justice or other magistrate above mentioned, on the oath of one witness (which oath as well the justice or other magistrate above mentioned acting in and for the county &c. where the offence shall have been committed, as such justice and other magistrates above mentioned as shall be resident in the county &c. where the offender shall actually be present, are hereby authorized and required to administer); and in default of payment of the penalty which shall have been awarded on the conviction of such offender he shall for every such offence be committed to the common gaol or house of correction of the county &c. where such offence shall have been committed, or of the county &c. where he shall actually be present (as the cause may be), for not exceeding three calendar months nor less than five days, at the discretion of the justice or justices by or before whom such offender shall be convicted.

Where no specific penalties are provided for offences, justices may impose them.

By s. 20. If any person shall receive any money for conniving at any offence prohibited by this act, either for any single offence or for a number of such offences, or by stipulation or agreement by the day, the week, the year, or any other period of time, and shall be duly convicted thereof before one justice, or before any other magistrate above mentioned, he shall forfeit 5*0l*. for each offence, and in default of payment be committed to any house of correction for not exceeding three months nor less than one month.

Penalty on Persons conniving at offences.

By s. 21. All stage coaches, (longbodied coaches included), carrying no parcels or luggage whatsoever, excepting in the inside or in the front boot thereof, or in a boot behind or under the body of such carriage; and where the top of such boot behind, when the coach is empty, is not more than six feet from the ground, and having obtained a special licence for that purpose, and having the name of the owners, and the number of outside and inside passengers thereby allowed painted or inscribed thereon, shall be permitted to carry two outside passengers more than the number of outside passengers hereby limited with respect to other coaches or carriages above described, without subjo-

Carriages of a certain description may carry an additional number of passengers.

Limitation of
Actions.

ing the drivers &c. to any of the penalties, &c. authorized to be imposed by this act.

By s. 22. Any prosecution under this act shall be commenced within the space of fourteen days after the offence shall have been committed, and there shall be but one recovery for the same offence, except where the owner or owners of stage coaches or other carriages above described, are required to paint their names or name or sign, and to preserve the same in a clear or legible state, in which case such prosecution may be commenced at any time, and any neglect in remedying the same for the space of one month shall be considered a new offence.

Exemption of
hackney coach
stages from the
operation of
this act.

By s. 23. Nothing in this act contained shall affect such hackney coaches, or their owners or drivers respectively, as now are or hereafter may be licensed by the said commissioners for licensing and regulating hackney coaches, whether such coaches be so licensed to be used and driven in the ordinary and indiscriminate work of hackney coaches in general, in and about the streets and places within which such hackney coaches are by law compellable to go, or be driven, or are or may be licensed expressly for the purpose of being employed and driven as hackney coach stages between the metropolis and certain villages and places in the vicinity thereof; any thing in this act contained to the contrary thereof in anywise notwithstanding.

Forms of pro-
ceedings set
forth in the
schedule to be
used.

By s. 24. The forms of the proceedings relative to the several matters contained in this act, which are set forth and expressed in the schedule hereunto annexed, may be used upon all occasions, and with such additions or variations as may be necessary to adapt them to the particular case, or the place where the prosecution for the offence shall take place, and no advantage shall be taken on account of want of form in any such proceedings; and such conviction, unless appealed from within fourteen days in the manner hereinafter mentioned, shall be final and conclusive.

Persons ag-
grieved may
appeal to the
quarter sessions.

But by s. 25. If any person shall find himself aggrieved by any determination, judgment, sentence or conviction, which any justice or justices of the peace or other magistrate above mentioned shall have given or made in any of the cases herein-before mentioned, and shall enter into a recognizance before such justice or justices, or other magistrate, with one sufficient surety, the condition whereof shall be, that such person do and shall appear before the court of the next quarter sessions for the county or other place where such determination &c. shall have been given, then and there to abide the final order, judgment and sentence of such

such court on the matters aforesaid, in every such case such person shall be at liberty to appeal to the next general quarter sessions of the peace to be holden for the said county or other place, who upon hearing the said appeal, shall have full power finally to determine the same; and to award such costs to the appellant or to the prosecutor or informer, as to such court shall seem fit to be awarded, and such last mentioned proceedings, final judgment, and sentence, shall not be removeable by writ of *certiorari* or otherwise into any other court.

This act shall be a public act. §. 26.

The SCHEDULES to which this Act refers.

Forms of proceeding mentioned in the foregoing act.

Information.

BE it remembered, That on the ——— day of ——— one thousand eight hundred and ——— A. B. of ——— in the said county, informeth me ——— one of his majesty's justices of the peace for the said county, that ——— [here describe the offence particularly, and follow the words of the act as near as may be] contrary to the statute made in the fiftieth year of the reign of King George the third, intituled, 'An Act for [here insert the title of this act] which hath imposed a forfeiture of ——— for the said offence, received the ——— day of ——— by me

C. D.

Summons for any person or persons to attend a justice of the peace or other magistrate.

To A. B. of

WHEREAS complaint and information hath been made before me C. D. one of his majesty's justices of the peace for the said county, et cetera] That, et cetera [here state the nature and circumstances of the case, as far as it shall be necessary to shew the offence and bring it within the authority of the justice, and in doing that follow the words of the act as near as may be]. These are therefore to require you personally to appear before me, or such other of his majesty's justices of the peace for the said county, et cetera] on the ——— day of ——— next, at the hour of ——— in the ——— noon, to answer the said complaint and information, and further to do and receive

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what to the law shall appertain. Herein fail not. Given under my hand and seal, this — day of — one thousand eight hundred and —

Form of conviction.

BE it remembered, That on the — day of — in the year of our Lord one thousand eight hundred and — at — in the county of — aforesaid, A. B. came before me, C. D. one of his majesty's justices of the peace for the said county, et cetera, and informed me, That, et cetera, [here set forth the fact in the manner described by the act] whereupon the said E. F. after being duly summoned to answer said charge, appeared before — on the — day of — at — in the said county, and having heard the charge contained in the said information, declared that he was not guilty of the said offence, but the same being fully proved upon the oath of G. H. a credible witness, it manifestly appears to me the said justice, that he the said E. F. is guilty of the offence charged upon him in the said information; it is thereby considered and adjudged by me the said justice, that he the said E. F. be convicted, and I do hereby convict him of the offence aforesaid; and I do hereby declare and adjudge, that he the said E. F. hath forfeited the sum of — of lawful money of Great Britain, for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided. Given under my hand and seal, the — day of — one thousand eight hundred and —

After the words "being duly summoned to answer the said charge," insert {did not appear before me pursuant to the said summons} or, [did neglect and refuse to make any defence against the said charge, but the same being fully proved, et cetera] as before.

After the words "contained in the said information" insert [acknowledged and voluntarily confessed the same to be true, and it manifestly appears to me the said justice, et cetera] as above.

And for every coach, diligence, or other carriage to be employed as a *public stage coach*, for the purpose of conveying passengers for hire, shall be charged a duty of 1d. [and by 37 G. 3. c. 16. s. 1. 1d. more] for every mile such carriage shall travel, to be paid by the owner. 25 G. 3. c. 51. s. 4. 48.

Duty on stage-coaches and diligences.

All diligences, coaches, or other carriages, that shall go from *London* or *Westminster* to any place in the country, or that shall come from the country to any place in *London* or *Westminster*, shall be licensed by the commissioners at the head office, or some person authorized by them. s. 50.

Coaches, diligences, &c. near *London*.

And in regard it may be difficult to ascertain the number of times such licensed diligences or other carriages, making short stages, may go in a day, the commissioners, or such officers as they shall appoint, may make allowances as shall appear just, to any person licensed as aforesaid, upon oath made by the owner of the number of journies actually made in a day, where the same shall differ from the number expressed in the licence. s. 51.

Every person licensed to use such diligence, coach, or other carriage as aforesaid, shall cause to be marked or painted on the outside pannel of each door his christian and surname, and the place from whence they set out, and to which they are going, in large and legible characters, in letters of a colour distinct from the colour of the carriage, each letter to be one inch in length, under the penalty of 10l. s. 52.

And the proprietor of every such diligence, coach, or other carriage, licensed to go from *London* to any other place, or from any other place to *London*, shall on the first *Monday* in every month between the hours of eight in the morning and two in the afternoon unless the same be an holiday, and then on the next day, pay the said duties to the receiver-general or the proper officer, at the head office; and if licensed from any town in the country to any other town than *London*, then he shall pay the same to the person authorized to receive the same, under the hands and seals of three commissioners; on pain of 5l. *Id.*

And a summons by such justice of the proprietors of such diligences, coaches, or other carriages, left at the inn or place where the carriage shall put up, with the person who keeps the books for taking places in such carriages, shall be deemed good service on such proprietor, although he may not have a residence or habitation at such inn or place. s. 61.

What shall be deemed a sufficient summons.

V. Farming the Post-horse and Stage-carriage Duty.

By the 27 G. 3. c. 26. The commissioners of the treasury, or commissioners of the stamp duties, being authorized

Duties granted by 25 G. 3. may be let to farm.

by them, may let to farm the duties granted by 25 G. 3. c. 51. upon horses travelling post, and by time, and on stage coaches. *f. 1.*

Districts to be fixed.

And may fix such districts as shall appear most convenient for farming out the said duties, and shall give one month's notice in the *Gazette* of the time and place of letting the same, specifying the districts, and the sum at which it is proposed to put up the said duties, and also the office into which proposals are to be delivered. *f. 2, 3.*

Proposals to be delivered 3 days before the letting.

But no proposals shall be proceeded upon, unless delivered three days previous to the day so appointed, signed with the name of the party, and stating his place of abode, and for what district he intends to bid. *f. 4.*

Mode of letting.

And the said duties shall be let for any term not exceeding three years, and shall be put up at a rent not less than the gross amount which they have produced within the year ending *August 1, 1786*; [by 42 G. 3. c. 52. *f. 1.* 1787.] and the highest bidder shall be the farmer thereof for the said term of three years, or for such shorter term as may be determined on, and as shall be inserted in the *Gazette*, and shall execute a contract, and give bond to his majesty with three sureties for payment of the rent in manner agreed on. *f. 5.*

And by 42 G. 3. c. 52. the above duties may be further let to farm till the 1st *Feb.* 1806. *f. 2.*

By the 48 G. 3. c. 98. reciting that by the 27 G. 3. c. 26. the duties imposed by 25 G. 3. c. 51. *sched. B.*, on horses, were let to hire, and that by the 44 G. 3. c. 98. those duties were repealed, and new duties granted by *sched. A. & B.* of that act, which by virtue of the 45 G. 3. c. 96. were let to farm till 1st *Feb.* 1809, it is enacted that the commissioners for the stamp duties may let to farm till 1st *Feb.* 1812, the said duties imposed by the 44 G. 3. c. 98. And by *f. 2.* of the first mentioned act the powers of 27 G. 3. c. 26. are extended to this act.

But in every such contract, there shall be a clause that the same shall be void, on any resolution made by the house of commons for that purpose, upon six months notice given to the person contracting. 27 G. 3. c. 26. *f. 6.*

If the duties are not let at the time fixed.

If any district shall not be let at the time fixed by such advertisement, the said commissioners may fix such future day as they shall think proper for letting such district, in the manner and upon the notice aforesaid. *f. 7.*

Deputations to be given to contractors.

And upon any contract being entered into and bond given as aforesaid, the commissioners shall appoint the person contracting to be collector of the said duties, and shall authorise him to take bonds from the persons licensed in the name of his majesty; and to execute all things touching the collecting, managing, and accounting for the said duties, as fully as the collectors

collectors or other persons appointed under the aforesaid act are authorized to do. *f. 8.*

When the statute 25 G. 3. was passed, it does not appear that the legislature had it in view to farm these duties, but the collection of them was to be under the management of the commissioners of the stamps under whom certain officers were to be appointed. Then came the 27 G. 3. empowering the commissioners of the treasury or those of the stamps to let the duties to farm to any persons willing to take them; but if they could not agree as to the terms on which the duties were to be let, then the collection of the duties was to go on as under the former act, and the same officers were to be continued. When those duties are farmed under the last act, the person contracting for them is composed of two characters, the farmer and collector; and on that joint character certain obligations, which before belonged to the commissioners of the stamps, are thrown. But in an action against such a person for not performing his duty, it is not sufficient to shew that he was a collector of the duties in fact; the plaintiff should aver specifically that the defendant is that person appointed under and by virtue of the 27 G. 3. on whom the duty is thrown; alleging that he is the collector of the rates and duties "recited" in that act is not sufficient. 6 T. R. 167.

Persons farming the said duties, with the consent of the said commissioners, may vary the mode of keeping the weekly account, directed by the aforesaid act to be kept by persons letting out horses to hire for travelling post, or by time, as they shall judge convenient; and shall be at liberty by any indorsement, or on the face of the ticket or certificate to be delivered by them to the licensed persons, to add the name or number of the district they farm. And if any person shall forge or counterfeit the said tickets, or be aiding or assisting therein, or in uttering as true any false, forged, or counterfeited ticket or certificate, with intent to defraud such farmer, he shall forfeit 50*l.* *f. 9.*

All the powers, provisions, penalties, directions, matters, and things prescribed and appointed by the said act of 25 G. 3. c. 51. with respect to the said duties, or to the persons appointed to collect the same, and not hereby altered shall be in full force and effect, and may be carried into execution by the persons farming the said duties, as fully as if the same had been re-enacted in these acts; and such farmers shall have the like remedies for the recovery of the said duties within their respective districts, as the collectors appointed by the said commissioners now have. *f. 10. 42 G. 3. c. 52. f. 5.*

And all bonds from such licensed persons shall be taken in the name of the king, and may be sued for in the name of the attorney-

Contractors may vary the form of keeping the accounts.

Powers granted by 25 G. 3. c. 51. to be in force in the execution of this act.

Bonds to be taken in the name of the king.

attorney-general, or other person, in manner as in the afore-
said act directed. Provided that all suits prosecuted in the
name of any such farmer shall be deemed popular actions to
all intents and purposes whatsoever; and the said farmers
shall have the same remedies for recovering the said duties, as
for duties payable to his majesty. 27 G. 3. c. 26. s. 11, 12.

In an action for penalties on this act brought by the farmer
of the duty, it is not necessary for the plaintiff to give evi-
dence of his appointment; but proof that the defendant has
accounted with him, as farmer, for the duties is sufficient.—
The offence may be laid to have been committed with intent
“to defraud the farmer,” and not his majesty. And a de-
claration charging the letting and not accounting for divers,
to wit, eight horses, would be sustained by proof that the de-
fendant let and did not account for five. *Radford v. Mac-*
intosh. 3 T. R. 634.

Provided always, that the said commissioners of stamps may
prescribe the time for making any deposit on account of the
rent to be paid by such farmers, and the sums to be so de-
posited; and if any such farmer shall fail to make such deposit
within the time prescribed, or shall fail to enter into security
for the due performance of such contract as directed by the
above act, such commissioners may declare such contract void;
and cause the duties let to farm thereby to be again put up
to be let to farm in like manner as herein-before directed, and
so from time to time as often as such default shall be made.
42 G. 3. c. 52. s. 3. re-enacted by s. 3. of 48 G. 3. c. 98.

Duties to belong
to the district
from whence the
tickets are issued.

And to prevent disputes where the duties may be collected
in one district and the tickets delivered in another, the said
duties shall belong, and the tickets issued thereupon, shall be
returned and accounted for, to the person who shall be the
farmer within the district where such tickets shall have issued,
and where such licensed person issuing the same shall reside.
And the gate-keepers at whose gates such tickets shall be de-
livered shall return the same to the farmer from whose dis-
trict such ticket shall have issued at the time, and in the man-
ner, as the same are directed to be returned to the collectors,
by the afore said act. 27 G. 3. c. 26. s. 13.

Licensed persons
to deliver their
accounts to the
contractors.

Every licensed person residing in *London* or *Westminster*,
or within five miles of the *head office* or *within the bills*, shall
deliver to such farmers, the accounts directed by the afore-
said act to be delivered, and shall pay in such place in *London*
or *Westminster*, and at such times as shall be appointed by pub-
lic notice in the *Gazette*: And every licensed person else-
where shall, at the times and places to be mentioned at the
foot of his license, and afterwards at the foot of every re-
ceipt given by the collector for the money paid on account of
the said duties, attend and there deliver in and pass his ac-

counts,

counts, and pay the duty received by him to the person so appointed collector thereof, under the penalty in the aforesaid act directed. But such licensed persons shall not be compelled to travel for the payment of the said duties farther than the nearest market town. *s. 14.*

Persons farming the said duties shall not thereby be disqualified from voting for members of parliament. *s. 15.*

Provided always, that no contract for farming the said duties shall be made with any licensed person, nor with any one for his use, or so as he shall have any interest therein, or benefit therefrom, but the same shall be void; or if any such contract shall be assigned to any person as aforesaid, or to any other person for his use, so as he shall have any interest therein, or benefit therefrom, such assignment shall be void. *s. 16.*

Contractors may vote at elections.

Licensed persons not to be farmers of the duties.

[N. B. The following forms are taken from those set forth in the act 28 G. 3. c. 57.]

Information. (A.)

Westmorland. **B**E it remembered, that on the — day of — 18 —, A. I. of — in the said county, informeth and maketh oath before me I. P. one of his majesty's justices of the peace for the said county, that A. O. of —, in the said county [here describe the offence], contrary to the statute made in the 28th year of the reign of king George the Third, "for limiting the number of persons to "be carried on the outside of stage-coaches, or other carriages," which hath imposed a forfeiture of — for the said offence. Taken and sworn the — day of —, before me I. P.

Summons. (B).

To A. O. of —

Westmorland. **W**HEREAS complaint and information hath been made upon oath before me I. P. one of his majesty's justices of the peace for the said county, by A. I. of —, that [here state the offence]: These are therefore to require you personally to appear before me, at — in the said county, on the — day of — next, at the hour of — in the — noon, to answer to the said complaint and information, made by the said A. I. who is likewise directed to be then and there present to make good the same. Herein fail you not. Given, &c.

Conviction. (C.)

Westmorland. **BE** it remembered, that on the ——— day of ———, in the year of our Lord ———, at ——— in the county of ——— aforesaid, A. T. came before me I. P. one of his majesty's justices of the peace for the said county, &c. and informed me that A. O. of ———, on the ——— day of ——— now last past, at ——— in the said county, did [here set forth the offence] : Whereupon the said A. O. after being duly summoned to answer the said charge [did not appear before me in pursuance to the said summons], or [did neglect and refuse to make any defence against the said charge], or [appeared before me on the ——— day of ———, at ——— in the said county, and having heard the charge contained in the said information, declared that he was not guilty of the said offence] (or as the case may be); but the same being fully proved upon the oath of A. W. a credible witness, it manifestly appears to me the said justice that he the said A. O. is guilty of the offence charged upon him in the said information, or [acknowledged and voluntarily confessed the same to be true.] It is therefore considered and adjudged by me the said justice that the said A. O. be convicted, and I do hereby convict him of the offence aforesaid; and I do hereby declare and adjudge that he the said A. O. hath forfeited the sum of ——— of lawful money of Great Britain, for the offence aforesaid, to be distributed as the law directs, according to the form of the statute in that case made and provided. Given, &c.

Potatoes stealing. See Turnips.

Pound breach. See Distress.

Powder for the hair. See Tares.

Præmunire.

[27 Ed. 3. c. 1.—16 R. 2. c. 5.—5 El. c. 1.]

What it is.

PRAEMUNIRE is so called from a word in the writ, *Præmunire facias præfatum A. B. quod tunc sit coram nobis, &c.* where *præmunire* is used for *præmonere*, to warn the person to appear, as is directed in the statute of 27 Ed. 3. c. 1. hereafter following. 1 Inst. 129.

Power of justices of the peace.

Notwithstanding that *præmunire* is not within the letter of the commission of the peace, yet inasmuch as it is against the peace of the king and of the realm, any justice of the peace may either on his own knowledge or the complaint of others cause any person to be apprehended for such offence; and he may take the examination of the person so apprehended, and the

the information of all who can give material evidence against him and put the same in writing, and bind over the witnesses to the king's bench or gaol delivery; and certify his proceedings to the same court to which he shall bind over such informers. 2 *Haw. c. 8. f. 34. Hale's Pl. 168.*

By the 27 *Ed. 3. c. 1.* called the statute of provisors, they who shall draw any out of the realm in plea, whereof the cognizance pertaineth to the king's court, or which do sue in any other court, to defeat or impeach the judgments given in the king's court, shall have a day, containing the space of two months, by warning to be made to them, by the sheriffs or other officers, to appear to answer in their proper persons for the contempt; and if they come not at the said day in their proper person to be at law, they, their procurators, attornies, executors, notaries, and maintainers, shall from that day forth be put out of the king's protection, and their lands, goods, and chattels forfeit to the king, and their bodies wheresoever they may be found shall be taken and imprisoned, and ransomed at the king's will. And upon the same a writ shall be made, to take their bodies and to seize their lands, goods, and possessions, into the king's hands. And if it be returned that they be not found, they shall be put in exigent, and outlawed.

Impeaching judgments in the king's court, a præmunire.

And by the 16 *R. 2. c. 5.* commonly called the statute of præmunire, and to which the several subsequent statutes do refer, both those who pursue, or cause to be pursued, in the court of *Rome*, or elsewhere, any processes or instruments or other things whatsoever, which touch the king, against him, his crown and regality, or his realm, and also those who shall bring, receive, notify, or execute them, and their faulters, and abettors, shall be *out of the king's protection*; and their lands and tenements, goods and chattels, forfeit to the king; and they shall be attached by their bodies, if they may be found, and brought before the king and his council, there to answer; or process shall be made against them by *præmunire facias*, in manner as it is ordained in other statutes of provisors.

Suing out foreign process, a præmunire.

And in these two statutes, as above recited, are contained the pains and penalties of what is called the *præmunire*. They were intended chiefly to oppose the papal incroachments in this realm: but the penalties thereof, by several subsequent statutes, are extended to other cases which have no relation to popery.

Out of the king's protection] So odious was this offence formerly, that a man who was attainted on the same might have been slain by any one without danger of law; because it was provided by law, that a man might do to him as to the king's enemy, and a man may lawfully kill an enemy; and

Persons guilty of a præmunire, might formerly have been killed.

and therefore by the 5 *El. c. 1.* it is enacted that it shall not be lawful for any one to slay any person attainted in or upon a præmunire. 1 *Inst.* 130.

Are disabled to
bring an action.

But he is so far out of the king's protection, that he is disabled to bring an action for any injury whatsoever. And no one knowing him guilty can with safety give him aid, comfort, or relief. *Inst.* 129, 130. 1 *Haw. c. 19. f. 47.*

Whether he
may demand
sureties.

And Mr. *Hawkins* says it has been questioned, whether he hath a right to demand surety of the peace. But *Lambard* and *Dalton*, which are the authorities he cites for it, incline to think that he hath such right. *Lambard* alleges for it the statute of 5 *El.* above mentioned; and *Dalton* asserts it without doubting. *Lam.* 80. *Dalt.* 272. 1 *Haw. c. 60. f. 3.*

Lands and tenements.

Lands and tenements——[*forfeited*] Yet tenant in tail shall only forfeit lands during life; for albeit the statute enacteth that lands and tenements shall be forfeited, that must be understood of such an estate as he may lawfully forfeit, and that is during his own life. 1 *Inst.* 130.

Corruption of
blood.

Attainder in præmunire worketh no corruption of blood. *Inst.* 391.

Prosecutions, however, for a præmunire are unheard of in our courts. The only instance of one to be found is in the State Trials; where the penalties of a præmunire were inflicted on some persons for refusing to take the oath of allegiance in the reign of *Chas. II.* 2 *Harg. St. Tr.* 263.

Presentment.

A Presentment is that which the grand jury find and present to the court, without any indictment delivered to them; which is afterwards reduced into the form of an indictment, and in nothing else differs from an indictment.

The presentment is drawn up in English by the jury, in a short note, for instructions to draw the indictment by; upon which the officer of the court must afterwards frame an indictment, before the party presented can be put to answer it: and it differs from an indictment, in that an indictment is drawn up at large, and brought ingrossed to the grand jury to find. 2 *Lill. Abr.* 353. 2 *Inst.* 739.

There are other presentments of churchwardens, constables, surveyors of the highways, and justices of the peace; all which may be seen under their proper titles.

Prison and Prisoner. See *Gaol.*

Prison-breaking.

[3 Ed. 1. c. 15.—1 Ed. 2. st. 2.]

IT seemeth that at the common law all prison-breaches were felonies, if the party were lawfully in custody for any cause whatsoever. 2 Haw. c. 18. f. 1.

Prison-breaking
at common law.]

But by the following statute, which is called the statute *de frangentibus prisonam*, the severity of the common law is moderated; in the explication of which statute will be contained the whole learning relating to this subject.

By statute.

The statute is this; *Concerning prisoners which break prison the king willeth and commandeth that none that breaketh prison shall have judgment of life or member for breaking of prison only, except the cause for which he was taken and imprisoned did require such judgment, if he had been convicted thereupon, according to the law and custom of the realm.* 1 Ed. 2. st. 2.

Concerning prisoners which break] Therefore if the prison be broken by a stranger, and not by the prisoner, or by his procurement, this is no felony in the prisoner. *Hale's Pl.* 108.

Prison broken
by a stranger.

Which break prison] It seems clear that any place whatsoever, wherein a person under a lawful arrest for a supposed crime is restrained of his liberty, whether in the stocks, or street, or in the common gaol, or the house of a constable, or private person, is properly a prison within this statute; for imprisonment is nothing else but a restraint of liberty. 2 Haw. c. 18. f. 4.

What shall he
deemed a prison.

And therefore this extendeth as well to a prison in law as a prison in deed. 2 Inst. 589.

But there must be an actual *breaking*; for if the door be open and he goes out, it is not felony, but a misdemeanor only. 2 Inst. 589. 2 Haw. c. 18. f. 9.

Must be an ac-
tual breaking.

But if the prison be fired without the privity of the prisoner, he may lawfully break to save his life. *Hale's Pl.* 108.

Also it seems that no breach of prison will amount to felony, unless the prisoner escape. 2 Haw. c. 18. f. 12.

That none that breaketh prison shall have judgment of life or member] That is, shall be guilty of felony. But nevertheless he is still punishable as for a high misprision, by fine and imprisonment; for it cannot be thought the meaning of the statute, in ordaining that such offences shall not be punished as capital ones, to intend that they shall not be punished at all. 2 Haw. c. 18. f. 21.

How punishable.

Nevertheless, by the 3 Ed. 1. c. 15. Those who have broken prison are not *bailable* by justices of the peace; and that for two reasons; 1. Because it carries a presumption of guilt. And, 2. Because it is a superadded offence to the former for which they stood committed. 2 H. H. 133.

Not bailable.

Except

Prison-breaking.

Except the cause for which he was taken and imprisoned did require such judgment] This is to be intended of a *lawful* cause; and therefore *false imprisonment* is not within this act. 2 *Inst.* 590.

Imprisonment is a restraint of a man's liberty under the custody of another, by lawful warrant, in deed, or in law. Lawful warrant is either when the offence appeareth by matter of record, as when the party is taken upon an indictment; or when it doth not appear by matter of record, as when a felony is done, and the offender by a lawful *mittimus* is committed to gaol for the same: But between these two cases there is a great diversity; for in the first case, whether any felony were committed or no, if the offender be taken by force of a *capias*, the warrant is lawful, and if he break prison it is felony, although no felony were committed; but in the other case, if no felony be done at all, and yet he be committed to prison for a supposed felony, and break prison, this is no felony, for there is no *cause*. 2 *Inst.* 590.

So that the cause must be just and not feigned, for things feigned require no judgment: Thus if a man give another a mortal wound, for which he is committed to prison, and breaketh prison, and the other dieth of the wound within the year, this death hath relation to the stroke; but because relations are but fictions in law, and fictions are not here intended, this prison-breaking is not felony. 2 *Inst.* 591.

So that the offence for which the party was imprisoned must be a capital one at the time of the offence, and not become such by a matter subsequent. 2 *Haw. c.* 18. *f.* 14.

And the cause must be expressed in the *mittimus*, although not so certainly as in an indictment, yet with such a convenient certainty as it may appear judicially that the offence requireth such judgment; as, not for felony generally, but for felony in stealing such a horse, and the like. 2 *Inst.* 591.

But if the offence for which the party is committed be supposed in the *mittimus* to be of such a nature as requires a capital judgment, yet if in the event it be found to be of an inferior nature, and not to require such a judgment, it seems difficult to maintain that the breaking of the prison, on a commitment for it can be felony; for the words of the statute are, *except the cause for which he was taken and imprisoned did require such judgment*; and here it appears that the offence which is the cause of his imprisonment doth not require such a judgment. *Id.* *f.* 15.

Suspicion.

But if a man be committed by lawful warrant for *suspicion* of felony done, if he break prison he may be indicted for that escape, albeit the commitment be for suspicion of felony, and yet no judgment can be given against him for suspicion, but for the felony itself, whereof he is suspected. 2 *Inst.* 592.

And an indictment that such a person *feloniously broke the prison* generally, is not good; but it ought to rehearse the specialty of the matter, that he being imprisoned for such or such felony broke the prison. 2 Inst. 591.

But if the party be only arrested for and in his *mittimus* charged with a crime which doth not require judgment of life or member, as petit larceny, or homicide by self defence, or by misadventure, and the offence be in truth no greater than the *mittimus* doth suppose it to be, it is clear, from the express words of the statute, that the breaking of the prison cannot amount to felony. 2 Haw. c. 18. f. 15.

But if a felony be made by a subsequent statute, and an offender is committed thereupon; if he break prison, it is felony. For since all breaches of prison were felonies by the common law, which is restrained by this statute in respect only of imprisonment for offences not capital, when an offence becomes capital, it is as much out of the benefit of the statute, as if it had always been so. Hal. Pl. 108.

Also it is said that the party may be arraigned for prison-breaking, before he be convicted of the crime for which he was imprisoned; for that it is not material whether he were guilty of such crime or not; for the words of the statute are, *for which he was taken and imprisoned*. 2 Haw. c. 18. f. 16.

But if he is first indicted and acquitted of the principal felony, he shall not be indicted for the breach of prison afterwards; for it being clear that he was not guilty of the felony, he is in law as a person never committed for felony, and so his breach of prison is no felony. 1 H. H. 612.

But the gaoler shall not be punished as a felon for the party's breach of prison, unless he voluntarily consented to it; but it seems to be a negligent escape in the gaoler, for which he may be punished by fine and imprisonment, because there wanted either that due strength in the gaol, or that due vigilance in the gaoler or his officers, that should have prevented it; and if gaolers might not be punished for this as a negligent escape, they would be careless either to secure their prisoners or to retake them that escape. 1 H. H. 601.

And therefore if a criminal endeavouring to break the gaol assault his gaoler, he may be lawfully killed by him in the affray. 1 Haw. c. 28. f. 13.

Indictment for prison-breaking, by escaping from a constable.

THE jurors for our lord the king upon their oath present that
A. C. late of——yeoman, constable of our said lord the
king in and for the town of——in the said county, on the
——day of——in the——year of the reign of——
at

at — within the town and constablewick aforesaid in the county aforesaid did take and arrest one A. O. late of — labourer, on suspicion of having committed a certain felony, in feloniously taking and carrying away one black gelding, the property of — of the value of — and thereupon be the said A. O. under the custody of him the said A. C. the constable aforesaid was brought before J. P. esquire, one of the justices of our said lord the king assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors within the said county committed, and he the said J. P. by his warrant directed to the said A. C. and others did command the said A. C. to carry and convey the said A. O. to the gaol of our said lord the king at — in the county aforesaid, there to be safely kept until he should be lawfully delivered from thence; by virtue of which said warrant he the said A. O. was taken and detained by him the said A. C. and he the said A. C. was conveying and carrying him the said A. O. to the gaol aforesaid, afterwards to wit, on the — day of — in the year aforesaid, he the said A. O. of — aforesaid in the county aforesaid, with force and arms, did feloniously break away and escape from and out of the custody of him the said A. C. the constable aforesaid, against the will of him the said A. C. and against the peace of our said lord the king, his crown and dignity.

Indictment for breaking out of gaol.

THE jurors for our lord the king, upon their oath present, that A. O. late of — in the county aforesaid labourer, — on the day of — in the — year of the reign of — at — aforesaid in the county aforesaid was arrested, imprisoned, and detained, in the gaol of our said lord the king for a certain felony by him committed; that is to say, for feloniously taking and carrying away one black gelding, the property of — of the value of — and that he the said A. O. on the — day of — in the year aforesaid, with force and arms, the aforesaid gaol of our said lord the king at — aforesaid in the county aforesaid feloniously did break and thereby did escape from and out of the said gaol, against the peace of our said lord the king, his crown and dignity.

Process.

[1 Ed. 4. c. 2.—8 H. 6. c. 10.—31 El. c. 3.—21 J. c. 4.—29 C. 2. c. 7. f. 6.—3 and 4 W. c. 9. f. 2. 4 and 5 W. c. 18.—c. 22. f. 4.]

By the commission of the peace, the justices in sessions have power to make and continue processes upon indictments against the persons indicted, until they can be taken, surrender themselves, or be outlawed.

Process by the commission.

And by the statute of the 1 Ed. 4. c. 2. Indictments and presentments taken in the sheriff's tourn shall be delivered to the next sessions, who may award process thereupon in like form as if they had been taken before themselves.

Process on indictments taken in the tourn.

And the law also in several cases in express words directs process to be made by justices out of sessions; and in other cases by necessary implication; and where a statute doth give power to justices out of sessions to enquire, hear and determine, there they may make process to cause the party to come and answer, otherwise they cannot proceed to hear and determine; and this may be either before or after presentment or indictment as the several statutes do require: Before presentment or indictment it is called a *warrant*; after presentment or indictment it is properly called *process*. Dalt. c. 193.

Process by justices out of sessions.

Commonly an indictment, being but an accusation against a man, is of no force but only to put him to answer unto it. And hereof all process hath the name, because it *proceedeth* or goeth out upon former matter either original or judicial. Lamb. 519.

Process what.

And it seemeth plain, from the nature of the thing, that there can be no need of process where the defendant is present in court, but only where he is absent. 2 Haw. c. 27.

No need of process, if the party be present.

The process ought to be in the name of the king. And if it issue from the king's bench, it ought to be under the stile of the chief justice; if it issue from any other court, there seems to be the same reason that it ought to be under the stile of the first in the commission. 2 Haw. c. 27. f. 8.

To be in the king's name.

Upon an indictment in sessions (for a misdemeanor, not being felony,) there must be 15 days between the stile and return of the *venire*; but if the entry be by consent of parties, the *venire* may be returnable *immediate*, and the trial be the same day. 3 Salk. 371.

When returnable.

Process on an indictment or appeal of death is one *capias*, and then an exigent; but in the case of any other felony, then by the 25 Ed. 3. c. 14. two *capias's* and then an exigent. Hal. P. 209. 2 Haw. c. 27. f. 16. Crown Cir. 31.

Process for felony.

The ordinary processes upon all indictments of trespass against

Process under felony.

against the peace, or of other offences against penal statutes, not being felony, or a greater offence, are as follow; first, if the offender be absent, a *venire facias*, which is but in the nature of a summons to cause the party to appear, shall be awarded, except where other process is directed by some statute. 2 Haw. c. 27 f. 9.

If it appear by the return of such *venire* that the party hath lands in the county whereby he may be distrained, the *distress infinite* shall be awarded from time to time till he do appear; and by force thereof he shall forfeit on every default so much as the sheriff shall return upon him in issues. But if a *nil* be returned on such a *venire*, then three *capias's*, that is, a *capias*, *alias*, and *pluries*, shall issue. *Id.* f. 10.

Where the inhabitants of a parish are indicted or presented, the process is, first a *venire* then a *disfringas*. Crown Cir. 21.

Process on informations.

By the 21 f. c. 4. by which all popular actions on penal statutes are restrained to their proper counties, the like process in every popular action, bill, plaint, suit, or information on a penal statute, before the quarter sessions, (or higher courts) shall be awarded as in an action of trespass *vi & armis* at the common law.

And consequently, the process in all such suits must be by attachment or *pone per vadios*; and after by distress *infinite*, where by the return the party appears to be sufficient, otherwise by *capias*. 2 Haw. c. 27. f. 13.

By 48 G. 3. c. 58. f. 1. it is enacted that whenever any person is charged with any offence for which he may be prosecuted by indictment or information in the king's bench, not being treason or felony, and the same shall be made to appear to any judge of the same court by affidavit, or by certificate of an indictment or information being filed against such person in the said court for such offence, such judge may issue his warrant under his hand and seal, and thereby cause such person to be apprehended and brought before him or some other judge of the same court, or before some one justice of the peace, in order to his being bound with two sufficient sureties in such sum as the said warrant shall express, with condition to appear in the said court at the time mentioned in the said warrant, and to answer all and singular indictments or informations for any such offence; and if he shall neglect or refuse to become so bound, such judge or justice may respectively commit him to the common gaol of the county, city, or place where the offence shall have been committed, or where he shall have been apprehended, there to remain until he shall become bound as aforesaid, or be discharged by order of the said court in term time, or of one of the judges of the said court in vacation; and the recognizance to be thereupon taken

shall be returned and filed in the said court, and shall continue in force until such person shall have been acquitted of such offence, or in case of conviction shall have received judgment for the same, unless sooner ordered by the said court to be discharged; and that where any person either by virtue of such warrant of commitment, or by virtue of any writ of *capias ad respondendum* issued out of the said court, is now or hereafter shall be committed or detained in any gaol for want of bail, it shall be lawful for the prosecutor to cause a copy thereof to be delivered to such person, or to the gaoler, keeper, or turnkey of the gaol wherein he is or shall be so detained, with a notice indorsed, that unless such person shall, within eight days from the time of such delivery of a copy of the indictment or information as aforesaid, cause an appearance, and also a plea or demurrer to be entered in the said court to such indictment or information, an appearance and the plea of not guilty will be entered thereto in the name of such person; and in case he shall thereupon for the said space of eight days after such delivery of a copy of the indictment or information as aforesaid neglect to cause an appearance, and also a plea or demurrer to be entered in the said court to such indictment or information, it shall be lawful for the prosecutor, upon affidavit made and filed in the said court, of the delivery of a copy of such indictment or information, with such notice so indorsed to such person, or to such gaoler, keeper, or turnkey as the case may be, which affidavit may be made before any judge or commissioner of the said court authorized to take affidavits in the said court, to cause an appearance and the plea of not guilty to be entered in the said court to such indictment or information for such person, and such proceedings shall be had thereupon as if the defendant in such indictment or information had appeared and pleaded not guilty according to the usual course of the said court; and if upon the trial thereof the defendant so committed and detained shall be acquitted of all the offences charged there upon him, the judge before whom such trial shall be had, although he may not be one of the judges of the king's bench, may order the defendant to be forthwith discharged out of custody as to his commitment as aforesaid, and such defendant shall be thereupon discharged.

If a defendant appear to an indictment of felony, and afterwards before issue joined make an escape either from his bail or from prison, the common *capias*, *alias*, and *pluries*, shall be awarded against him, unless there had been an exigent before, in which case a new exigent shall be awarded.

Process on an escape.

Haw. c. 27. §. 19.

The exigent shall not be awarded against accessaries until the principal shall be attainted. 3 Ed. 1. c. 14. 2 Haw. c. 27. §. 130.

Process against accessaries.

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Process in a foreign county.

By the 8 H. 6. c. 10. On indictments for treason, felony, or trespass, against persons dwelling in other counties than where the indictment is taken, before any exigent awarded, presently after the first writ of capias awarded, and returned, another writ of capias shall be awarded, directed to the sheriff of the county whereof the person indicted was supposed to be conversant by the same indictment, returnable before the same justices or others before whom he is indicted, at a certain day, continuing the space of 3 months from the date of the said last writ, where the counties are holden from month to month; and where they are holden from 6 weeks to 6 weeks he shall have 4 months, until the return of the same writ; by which writ of second capias it shall be commanded to the same sheriff to take the person indicted by his body, if he can be found within his bailiwick; and if he cannot be found within his bailiwick, that the said sheriff shall make proclamation in two counties before the return of the same writ, that he which is so indicted shall appear before the said justices or others in the county liberty or franchise where he is indicted at the day contained in the said last writ of capias, to answer to the king of the felony, treason, or trespass, whereof he is so indicted; after which second writ of capias so served and returned, if he which is so indicted come not at the day of the same writ of capias returned, the exigent shall be awarded. And every exigent and outlawry otherwise awarded or pronounced shall be void.

And if any such indictment shall be removed by extortion, then before the exigent awarded, presently after such first capias returned, another writ of capias shall be directed as before, returnable before the king in his bench.

But this shall not extend to indictments taken in the county of Chester.

Also if any person be indicted of felony or treason, and at the time of the same felony or treason supposed was conversant within the county whereof the indictment maketh mention, the like process shall be made against the person so indicted, as hath formerly been used; that is, without sending process into the other county.

But every person indicted in the form aforesaid, after he is duly acquit by verdict, shall have an action upon his case, against the procurer of such indictment; and if such procurer be attainted thereof, the plaintiff shall recover treble damages. Which seemeth to be upon account of the distance at which he is supposed to live from the place where he is indicted, and consequently his extraordinary trouble in that behalf.

[Dwelling in other counties] If the defendant be named of B. and late of C., there is no need of any capias to the sheriff of the county where C. lies, because it appears that the defendant is at present conversant at B. But if a defendant be named of no certain place at present, but only late of B. and late of C. and late of D. being all of them in counties dif-

ferent

ferent from that wherein the prosecution is commenced, a *capias* shall go to the sheriff of every one of those counties. 2 *Haw. c. 27. f. 126.*

Shall be void] Not utterly void, but only voidable by writ of error. *Id.*

County of Chester] But it may be awarded into the counties palatine of *Lancaster* and *Durham*; and it seems that it shall be directed to and returned by the chancellor of *Lancaster*, or bishop of *Durham*; and it hath been said that if he will not return it, the exigent may be awarded as well as if he had returned it; because the court (of the sessions at least) cannot compel him to return it, and the prosecution might be unreasonably delayed, if the proceedings were to be stayed till he should return it. 2 *Haw. c. 27. f. 125. Hal. Pl. 209. 210.*

Mr. *Marrow* saith, that by the equity of this statute, if a person indicted in one county is imprisoned in another, the justices may award an *habeas corpus* to remove him before themselves. *Lamb. 526.*

Concerning the execution of the process, it is laid down as a general rule, that wherever the king is a party to the suit (as he certainly is to all informations and indictments) the process ought to be executed by the sheriff himself, and not by the bailiff of any franchise, whether it have the clause *non omittas* or not, and whether the defendant be within a franchise or in the county at large; for the king's prerogative shall be preferred to any franchise: but it is said, that this is to be intended only where in the grant of the franchise no mention is made of causes to which the king is a party. 2 *Haw. c. 27. f. 17.*

To be executed by the sheriff.

And if the party be in a house, if the doors be shut, and the sheriff (having given notice of his process) demand admittance, and the doors be not opened, he may break open the doors, and enter to take the offender. 2 *H. H. 202.*

Breaking open doors.

But no person, on the Lord's day, shall serve or cause to be served any writ, process, or warrant, order, or judgment (except in cases of treason, felony, or breach of the peace); but the service thereof shall be void, and the person serving the same shall be liable to answer damages to the party grieved, in the same manner as if he had done it without any writ, process, warrant, order, or judgment at all. 29 *C. 2. c. 7. f. 6.*

Process on a Sunday.

It seems to be agreed that every suit, whether civil or criminal, and also every process in such suit against jurors, ought to be properly continued from day to day from its commencement to its conclusion, without any the least gap or chasm; the suffering any such gap or chasm is properly called a *discontinuance*; and the continuing the suit by improper process, (as by a *capias* instead of a *distingas*,) or by giving the

Process discontinued.

the parties an illegal day is properly called a *miscontinuance*; and if the justices, before whom the matter is depending, do not come on the day to which it is continued, it is said to be *put without day*, and cannot be revived without a re-lummons or re-attachment. 2 *Haw. c. 27. f. 89. & seq.*

Now process may be discontinued several ways. As, 1. Where the second is not tested on the very same day on which the first is returnable. 2. Where there is a sessions intervening between the teste and the return of a *capias*, that the defendant may not be imprisoned an unreasonable time. But it is no objection to an *exigent* that it is not returnable the next sessions, because it must allow time for five counties to be holden between its teste and return. 3. Where, after issue or demurrer, the court gives the party a day to a distant sessions, without making any continuance to that immediately following. 4. Where the sessions to which the suit is continued is adjourned, and the suit is not adjourned accordingly. 5. Where any of the parties are described in any continuance of the suit, whether on the roll, or by process, by a name or addition variant from those in the original, though only in one letter. 6. Where a *venire* or *disfringas* is issued, without any award on the roll to warrant them. *Id.*

And it seems generally to be taken as an undoubted principle, that a discontinuance by suffering a total chasm in the proceedings, whether on the roll or in the process, by not giving a fresh continuance instantly upon the determination of the precedent, shall never be aided by any appearance of pleading over: but it is holden by the greater number of authorities that if the original be good, and the defendant present in court, he shall be compelled to answer to such original, let the process whereon he came in, or the execution of it, be never so erroneous or defective, so that it never were discontinued, for the end of process is to compel an appearance, and the end being served, and a legal charge appearing against the defendant no way discontinued, the law will not so far regard a slip in the process, as to let the defendant out of court, in order only to have him brought in again in better form. *Id. f. 107.*

Process stayed by
putting in bail.

The processes (as well of *capias* as of outlawry) may be stayed by a *superfedeas* issuing from other justices (out of sessions) testifying that the party hath come before them, and hath found sureties for his appearance to answer to the indictment, or to pay his fine. *Dalt. c. 193.*

And it seemeth that even any one justice may bail persons indicted at the sessions for any offence under the degree of felony; for that the statutes relating specially to the power of justices in granting bail do no: in this case seem to take away
the

the power which one justice had before the making of the said statutes. 2 *Haw. c. 15. f. 54.*

Judgment of outlawry is given by the coroner, at the fifth county court, upon the party's not appearing to the exigent (which is a writ commanding the sheriff to cause the defendant (*exegi*) to be demanded from county court to county court until he be outlawed): And such judgment is entered thus, *Therefore by the judgment of the coroners of our lord the king of the county aforesaid he is outlawed.* 2 *Haw. c. 48. f. 21.*

Process of outlawry.

The word outlaw (*utlaghe*) *utlagatus* cometh not immediately from the Latin *lex*, but is derived to us through the Saxon *laga*, which signifieth *law*. And a person outlawed signifies one that is out of the protection of the king, and out of the aid of the law.

Meaning of the word outlaw.

And a man which is outlawed is called outlawed; but a woman which is outlawed is called waived, and not *utlagata*; for that women are not sworn in leets or tornes, as men which are at the age of 12 or more are; and therefore men may be called *utlagati*; that is, *extra legem positi*, but women are *waviata*, that is *derelictæ*, left out or not regarded, because they were not sworn to the law: wherein it is to be noted, that of ancient time a man was not said to be within the law that was not sworn to the law, which is intended of the oath of allegiance in the leet. 1 *Inst. 122.*

A woman outlawed.

Hence it is, that a man under the age of 12 years cannot be outlawed. 1 *Inst. 122.*

Process of outlawry lies in all indictments of treason or felony, and on all returns of rescous; and also on all indictments of trespasss with force and arms; and it seems probable that it lies on an indictment of conspiracy or deceit, or any other crime of a higher nature than a trespasss with force and arms; but not on any indictment for a crime of an inferior nature. And it seems agreed that it lies not on any action on a statute, unless it be given by such statute, either expressly, as in the case of a *præmunire*, or impliedly, as where a recovery is given by an action wherein such process lay before, as on a writ of trespasss for a forcible entry, on the 8 *H. 6. c. 9.*, because the statute expressly gives a recovery by such a writ, and such process lies in it by the common law. 2 *Haw. c. 27. f. 113.*

For what outlawry may be.

In every action personal, wherein any exigent shall be awarded out of any court, one writ of proclamation shall be awarded out of the same court, having day of teste and return as the writ of exigent shall have, directed and delivered of record to the sheriff where the defendant dwells; which writ of proclamation shall contain the effect of the action; and the sheriff shall make one proclamation in the open county court, and another at the general quarter sessions where the defendant

Outlawry proclaimed at the sessions.

ant dwells, and another a month at least before the *quinto exactus*, by virtue of the said writ of exigent, at or near the most usual door of the church or chapel where the defendant shall be dwelling at the time of the exigent awarded, upon a Sunday immediately after divine service. 31 *El. c. 3.*

Also upon issuing any exigent out of any of the king's courts against any person for a criminal matter, before judgment or conviction, there shall also issue a writ of proclamation, bearing the same teste and return, where the person in the record of proceeding is mentioned to inhabit, according to the form of the 31 *El. c. 3.*, which writ of proclamation shall be delivered to the sheriff three months before the return of the same. 4 & 5 *W. c. 22. f. 4.*

Return of the
outlawry.

If there are two coroners in a county, or more, one may execute the writ, as in case of an exigent, but the return must be in the name of the coroners. 2 *H. H. 56.*

And the return of the outlawry must be certain: it must shew where the county court was held, and in what county; and must return the day, and year of the king, to every *exactus*. 2 *H. H. 203.*

Also the sheriff's name and office must be subscribed to the return of the exigent. 2 *H. H. 204.*

Capias utlagatum.

It is said that the justices in sessions cannot issue a *capias utlagatum*, but must return the record of the outlawry into the king's bench, and the process of *capias utlagatum* shall issue. 2 *H. H. 5. 2.*

But in *T. 10 f.* the opinion of all the court of common pleas was, that if one be outlawed before the justices of the peace on an indictment of felony, they may award a *capias utlagatum*, and so was the opinion of *Periam* chief baron, and all the court of exchequer; for they, that have power to award process of outlawry, have also power to award a *capias utlagatum*, as incident to their authority and jurisdiction. 12 *Co. 103.*

Consequences of
outlawry.

If a person be outlawed at the suit of one man, all men shall take advantage of this personal disability. 1 *Inst. 128.*

But such disability abateth not the writ, but only disableth the plaintiff, until he obtain a charter of pardon. *Id.*

For treason or
felony.

Upon outlawry in treason or felony, the offender shall lose and forfeit as much as if he had appeared and judgment had been given against him, as long as the outlawry is in force. 2 *Haw. c. 48 f. 22.*

For an inferior
offence.

But the outlawry for a misdemeanor doth not inure as a conviction for the offence, as it doth in cases of treason and felony; but as a conviction of the contempt for not answering, which contempt is therefore punished, not by fine as a conviction for the offence, but by forfeiture of goods and chattels for the contempt. *R. v. Tippen. 2 Salk. 494.*

The very issuing of the exigent, in case of treason or felony, gives to the king the forfeiture of the goods of the party from the time of the teste of the writ of exigent ; and the forfeiture by the exigent awarded stands, although the indictment be quashed, until there be a judgment of reversal on a writ of error ; because the king's title being of record must be avoided by a record. 2 *H. H.* 204, 205.

Goods forfeited from the time of issuing the exigent.

And as the award of the exigent gives the forfeiture of the goods, so the outlawry gives the forfeiture or loss of the lands of the party outlawed ; to wit, in case of outlawry of treason his lands are forfeited to the king, of whomsoever they are held ; and in case of outlawry of felony to the lord by escheat, of whom they are immediately holden. 2 *H. H.* 206.

Lands forfeited from the time of the outlawry.

But it must be remembered that the bare judgment of outlawry by the coroner, without the return thereof of record, is no attainder, nor gives any escheat ; but it must be returned by the sheriff, with the writ of *exigi facias*, and the return indorsed. 2 *H. H.* 206. Or else it must be removed by *certiorari* ; for the judgment given by the coroner in the county court is not matter of record, that court not being a court of record. 1 *Inst.* 288.

But the outlawry must be first returned.

And by the outlawry all *personal* chattels are vested in the king by forfeiture ; but *real* chattels, or freehold estates, are not vested in the king till after inquisition found. 3 *Salk.* 262.

And after inquisition found.

In ancient times no man could have been outlawed but for felony, the punishment whereof was death ; and upon this account an outlawed man was called *wolfeshead*, because he might be put to death by any man, as a wolf, that hateful beast, might. But in the beginning of the reign of K. *Ed.* 3. it was resolved by the judges, for avoiding of inhumanity, and of effusion of christian blood, that it should not be lawful for any man but the sheriff, having lawful warrant, to put to death any man outlawed, though it were for felony ; and if he did, he shall undergo such pain of death, as if he had killed any other man : and so the law continues to this day. 1 *Inst.* 28.

Whether it is lawful to kill an outlaw.

If a man be indicted before justices of the peace, and thereupon outlawed, and is taken and committed to prison, the justices of gaol-delivery may award execution of this prisoner ; for they are constituted to deliver the gaol. 4 *Inst.* 156. *Hale's Pl.* 158. 2 *H. H.* 35.

Judges of assize may award execution of persons outlawed before justices of the peace.

Where clergy is allowable, it shall be as much allowed to one who is outlawed as to one who is convicted by verdict or confession. 2 *Haw. c.* 33. *f.* 27

Clergy in cases of outlawry.

But a statute taking the benefit of clergy from those who shall be found guilty doth not thereby take it from those who are outlawed. *Id.* *f.* 28.

But by the 3 and 4 *W. c.* 9. *f.* 2. *If any person be indicted of*

of any offence, for which, by any former statute, he is excluded from clergy, upon conviction, if he shall be outlawed thereupon, he shall not have his clergy.

By any former statute] Hereby it appears that this extends not to offences made felonies by statutes subsequent to this statute. 2 Haw. c. 33. f. 49.

Person outlawed cannot be plaintiff,

Where a person is outlawed, the defendant may shew all the matter and outlawry returned of record, and demand judgment if he shall be answered, because he is out of the law, to sue an action during the time that he is outlawed. 1 Inst. 128.

Cannot be a juror.

It seems to be a good challenge of a juror, that he is outlawed either for a criminal matter, or as some say in a personal action; but not a principal challenge, but only to the favour, unless the record of the outlawry be produced. 2 Haw. c. 25. f. 16. c. 43. f. 25.

May be a witness.

But it seems clear that outlawry in a personal action is not a good exception against a witness, as it is against a juror. 2 Haw. c. 46. f. 21.

May make a will.

An outlawed person may make a will, and have executors or administrators. Cro. El. 575.

Reversing outlawry.

And an executor may reverse the outlawry of the testator, where he was not lawfully outlawed. 1 Leon. 325.

Outlawry may be reversed several ways; as by procuring a *superfedeas*, and delivering it to the sheriff before the *quinto exactus*, or by shewing any matter apparent on record which makes the outlawry erroneous, as the want of an original, or the omission of process, or want of form in a writ of proclamation, or a return by a person appearing not to be sheriff, or a variance between the original and exigent or other process, or by a misnomer, or want of addition. 2 Haw. c. 50.

In what case the party must appear personally to reverse it.

And upon a writ of error upon an outlawry in felony, the party outlawed must render himself in custody, and pray the allowance of the writ of error in person; and if the outlawry be reversed, he shall be put to answer the indictment. 2 H. H. 209.

But by the 4 & 5 W. c. 18. one outlawed, except for treason or felony, need not appear in person to reverse an outlawry, but may appear by attorney. 2 Salk. 496.

Other kinds of process.

There is another kind of process out of a court of record against offenders, called *attachment*, which is generally for contempt; which belongs to title *Attachment*.

The process against *jurors*, may be seen in the title *Jury*. And the process against *witnesses*, in title *Evidence*.

Forms of process; and first of a *Venire*.

GEORGE the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith. To the sheriff of the county of Westmorland, greeting.

We command you that you omit not, by reason of any liberty in your bailiwick, but that you cause A. O. of _____ in your said county, yeoman, to come before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed at _____ in your said county, on the _____ day of _____ next ensuing, to answer unto us upon certain articles presented against him the said A. O. And have you there then this precept. Witness J. P. and K. P. at _____ the _____ day of _____ in the _____ year of our reign.

And upon this *venire*, if the defendant be returned sufficient, and maketh default, then a *distringas* shall be awarded, and so the same process infinite, until he come in : but if a *nihil habet* be returned at the first, then after the *venire* there shall go out a *capias*, alias, *pluries*, and *exigent*. Dak, Socr. 160.

Form of a *Distringas*.

GEORGE the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith. To the sheriff of the county of _____ greeting. We command you, that you omit not, by reason of any liberty in your bailiwick, but that you enter the same, and distrain A. O. of _____ in your county, yeoman, by all his lands and tenements, &c. and that you answer for the issues thereof &c. and that you have his body before our justices assigned [and so on, as before in the *venire*.]

But if a *nihil* (as hath been said) be returned at first upon the *venire facias* ; then a *capias* shall issue thus ;

GEORGE the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith. To the sheriff of the county of _____ greeting. We command you that you omit not, by reason of any liberty in your bailiwick, but that you enter the same, and take A. O. of _____ in your county, yeoman, if he shall be found in your bailiwick, and him cause to be safely kept, so that you have his body before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, at _____ in your county, on the _____ day of _____ next ensuing, to answer unto us concerning divers trespasses, contempts, and offences, of which he is indicted. And have you there then this writ. Witness J. P. and K. P. at _____ the _____ day of _____ in the _____ year of our reign.

At which day A. S. knight, sheriff of the county aforesaid, returned

Process.

returned that he is not found in his bailiwick, and he did not come. Therefore it is commanded as before.

Note; The cause why the entry is made, and he did not come, is, because the party may appear voluntarily, and so avoid the attachment or arrest of his body.

The *Alias Capias*.

GEORGE ——— To the sheriff ——— We command you; as we before commanded you, that you omit not ——— (as before).

At which day ——— (as before); and he did not come. Therefore it is commanded to the sheriff, as it hath been often commanded, &c.

The *Pluries Capias*.

GEORGE, &c. The sheriff, &c. We command you, as we have often commanded you, that you omit not (as before).

At which day A. S. knight, the sheriff aforesaid, returned, that the aforesaid A. O. is not found in his bailiwick, and he did not come. Therefore it is commanded, that you cause to be demanded, &c.

The *Exigent*.

GEORGE, &c. To the sheriff, &c. greeting. We command you that you cause A. O. of ——— in your county, yeoman, to be demanded, until by the law and custom of our kingdom of England he be outlawed, if he shall not appear; and if he shall appear, that then you take him and cause him to be safely kept so that you have his body before our justices assigned to keep our peace, and also to hear and determine divers felonies, trespasses, and other misdemeanors in your said county committed, at the general quarter sessions of the peace of your county, next after the feast of ——— next ensuing, to be held, wheresoever in the same county the said sessions shall happen to be holden, to answer unto us of divers trespasses, contempts, and offences, of which he is indicted. And have you then there this writ. Witness Sir J. P. baronet, at ——— in the said county, the ——— day of ———, in the ——— year of our reign.

At which day A. S. knight, sheriff of the county aforesaid, returned, that at the county holden at ———, the ——— day of ———, in the ——— year of the reign of our lord the king, that now is, and so at four other counties then next following there, holden the aforesaid A. O. was demanded, and did not appear. Therefore, by the judgment of the coroner of our said lord the king, in the county aforesaid, he was outlawed.

The

The Capias Utlagatum.

GEORGE, &c. *To the sheriff, &c. greeting. We command you that you omit not, by reason of any liberty in your county, but that you take A. O. late of ———, in your county, labourer, if he shall be found within your county; and him cause safely to be kept, so that you have his body before the keepers of our peace and our justices assigned to hear and determine divers felonies, trespasses, and other misdemeanors in your county committed at ——— the ——— day of ——— to stand right in our court before our justices aforesaid, upon a certain outlawry against him the said A. O. promulgated, at our suit, for certain felonies (or trespasses) whereof he is indicted. And have you then there this writ. Witnesses, &c.*

Profaneness. See Blasphemy.

Promissory notes.

[15 G. 3. c. 51.—17 G. 3. c. 3.—17 G. 3. c. 30.—24 G. 3. c. 7.—27 G. 3. c. 16.—31 G. 3. c. 25. s. 2. to s. 19. inclusive.—37 G. 3. c. 28.—c. 32. s. 3.—c. 61. s. 2.—c. 90. s. 3.—c. 136. s. 5. 6.—41 G. 3. U. K. c. 10. s. 3. 4.—43 G. 3. c. 139.—44 G. 3. c. 4. s. 1.—48 G. 3. c. 148]

By the 15 G. 3. c. 51. (a) All promissory or other notes, notes, bills of exchange, draughts, or undertakings in writing, being negotiable and transferable, for the payment of any sum or sums of money less than 20s. in the whole, shall be void; and if any person or persons shall publish or utter any such notes, bills, draughts, or engagements, for a less sum than 20s. or on which less than 20s. shall be due, and which shall be in anywise negotiable, or shall negotiate the same; every such person shall forfeit not exceeding 20l. nor less than 5l.

Promissory notes, &c. under 20s. are void.

And the justice or justices before whom any offender shall be convicted as aforesaid, shall cause the conviction to be made out in a summary form, as specified in the act, with divers particular directions.—But (by mistake, as it seemeth) there is neither justice nor conviction mentioned in the foregoing part of the act, nor is any power given therein to any justice to intermeddle, nor any mode of conviction, as by confession, oath of witness, or otherwise.

(a) The 15 G. 3. c. 51. was to continue for 5 years only; but by 17 G. 3. c. 3. the same was continued for 5 years more, and by 27 G. 3. c. 16. is made perpetual.

By

Promisory
notes, &c. of
20s. and under
5l.

By the 17 G. 3. c. 30. reciting that the said former act had been found beneficial, and in case the provisions therein contained were extended to a farther sum (but yet without prejudice to the convenience arising to the public from the negotiation of promisory notes and inland bills of exchange, for the remittance of money in discharge of any balance of account or other debt) the good purposes of the said act would be further advanced, it is therefore enacted, that all promisory or other notes, bills of exchange, or draughts, or undertakings in writing, being negotiable or transferable, for the payment of 20s. or above that sum, and less than 5l. or on which 20s. or above, and less than 5l. shall remain undischarged, shall (1) specify the names and places of abode of the persons respectively to whom, or to whose order, the same shall be made payable; and (2) shall bear date before or at the time of drawing or issuing thereof, but not on any day subsequent thereto; and (3) shall be made payable within 21 days next after the day of the date thereof, and shall not be transferable or negotiable after the time thereby limited for payment; and (4) every indorsement thereon shall be made before the expiration of that time, and shall bear date at or not before the time of making thereof, and shall specify the name and place of abode of the person to whom or to whose order the money is to be paid; otherwise such note, bill, draught, or undertaking shall be void.

The operation of
the above acts
suspended.

But by 37 G. 3. c. 32. and 37 G. 3. c. 61. the operation of the above two statutes of 15 and 17 G. 3. is suspended until 5th day of May 1797 (a), as far as they relate to making void promisory notes, draughts, or undertakings payable on demand to the bearer thereof, for any sum less than 5l. in the whole. *f. 1.*

Power of the
justices.

And if the person liable to pay the same shall fail to make full payment in money of the sum therein mentioned, or any part thereof, for [7 days, 37 G. 3. c. 61. *f. 2.*] after demand by the holder, one justice, on complaint by such holder, may summon such person refusing to pay; and on his appearance, or in default, on proof on oath of such summons having been duly served, may hear and determine the same, and may award such sum to be paid, together with the costs, not exceeding 20s., as to him shall seem meet; and if not paid upon demand may levy the same by distress, together with all costs attending such distress. 37 G. 3. c. 32. *f. 3.*

Which notes, bills, draughts, or undertakings and indorsements, may be in the form or to the effect following;

(a) By several subsequent acts, the suspension of the above two acts of 15 and 17 G. 3. is further continued; and by 44 G. 3. c. 4. *f. 1.* is continued till 25th March 1805.

[Place

Promissory notes.

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[Place, day, month, year] *Twenty-one days after date, I promise to pay to A. B. of ——— or his order, the sum of ——— for value received by*

Witness
E. F.

C. D.

Indorsement toties quoties.

[Place, day, month, year] *Pay the contents to G. H. of ——— or his order.*

Witness
J. K.

A. B.

If it is upon advice, say, ——— *Twenty-one days after date, pay to A. B. of ——— or his order, the sum of ——— value received, as advised by* C. D. (b)

[The publishing, uttering, or negotiating notes, bills of exchange, drafts or undertakings, contrary to this act, is prohibited and restrained under the like penalties as for offences against the former act; so that the impracticability of recovering the said penalties is alike in both cases].

By 31 G. 3. c. 25. the 23 G. 3. c. 49. is repealed, and the following stamp duties are imposed in lieu thereof; For every piece of vellum or parchment, or sheet or piece of paper, upon which any bill of exchange, draft or order for payment of money, *on demand*; and promissory or other note to *bearer on demand*, re-issuable from time to time (after payment) *where first issued*;

	By 31 G. 3. c. 25.	By 37 G. 3. c. 90.	By 41 G. 3. U. K. c. 10	Total.
For 40s. and not exceeding 5l. 5s.	0 3d.	0 1d.	0 2d.	0 6d.
Above 5l. 5s. ditto 30l.	0 6d.	0 2d.	0 4d.	1s. 0d.
Ditto 30l. ditto 50l.	0 9d.	0 3d.	0 6d.	1s. 6d.
Ditto 50l. ditto 100l.	1s. 0d.	0 4d.	0 8d.	2s. 0d.
Ditto 100l. ditto 200l.	1s. 6d.	0 6d.	1s. 0d.	3s. 0d.

Promissory or other note to *bearer on demand*, re-issuable after payment, at the *same*, or any other place than where first issued;

	By 31 G. 3. c. 25.	By 37 G. 3. c. 90.	By 41 G. 3. c. 10.	Total.
For 40s. and not exceeding 5l. 5s.	0 6d.	0 2d.	0 4d.	1s. 0d.
Above 5l. 5s. ditto 30l.	1s. 0d.	0 4d.	0 8d.	2s. 0d.

Bill of exchange, draft, or order, *otherwise than on de-*

(b) By 37 G. 3. c. 28. after 2d March 1797, all notes issued by the bank of England payable to bearer for less than 5l. shall be void.

mand.

Promissory notes.

and; and promissory or other note, otherwise than to bearer on demand;

	By 31 G. 3.	By 37 G. 3.	By 41 G. 3.	Total.
For 40s. and not exceeding 30l.	c. 25.	c. 90.	c. 10.	
Ab ve 30l. ditto 50l.	o 6d.	o 2d.	o 4d.	1s. 0d.
Ditto 50l. ditto 100l.	o 9d.	o 3d.	o 6d.	1s. 6d.
Ditto 100l. ditto 200l.	1s. 0d.	o 4d.	o 8d.	2s. 0d.
	1s. 6d.	o 6d.	1s. 0d.	3s. 0d.

Bill of exchange, promissory or other note, draft, or order, *on demand or otherwise*, where the sum shall exceed 200l.

2s. 0d. os. 8d. 1s. 4d. 4s. 0d.

By 24 G. 3. c. 7. notes or drafts under 40s. were not liable to any stamp duty: But by 39 G. 3. c. 107. f. 1. the following stamp duties are imposed thereon:

For every bill of exchange, promissory, or other note, draft, or order, whether payable on demand, or otherwise, for 1l. or 1l. 1s.

For 5s. - - - 2d.

For every promissory or other note to bearer on demand, payable only where first issued, and re-issuable at that place for 1l. or 1l. 1s.

For 5s. - - - 2d.

For every like note to bearer on demand, payable at two or more different places, or at any place different from that where first issued, and re-issuable from time to time, for 1l. or 1l. 1s.

For 5s. - - - 4d.

For 5s. - - - 1d.

But no bill of exchange hereby required to be stamped, shall be re-issuable under any pretence whatsoever. 39 G. 3. c. 107. f. 5.

And notes payable on demand, on which a duty of 2d. and o½d. is hereby imposed, paid by the person giving them at the place where first issued, may be re-issued, but if paid by any other person or at any other place shall be cancelled; and if re-issued, or if not cancelled, the person offending shall forfeit 20l. for every such offence. And such notes not cancelled, but again issued, shall pay the same duty as when first issued. *Id.*

But notes stamped with the duty of 4d. and 1d. respectively may be re-issued, though paid by other persons, and at other places than where first issued. f. 6.

All which duties aforesaid shall be paid by the person making or signing such bills, drafts, or notes. 31 G. 3. c. 25. f. 2. 39 G. 3. c. 107. f. 4.

But nothing herein shall extend to charge any foreign bills of exchange which shall be drawn in sets, according to the custom of merchants, with any higher duty than where the sum

Duty to be paid
by the drawer.

Foreign bills.

sum expressed therein, or made payable thereby, shall not exceed,

	By 31 G. 3. c. 25.	By 37 G. 3. c. 90.	By 41 G. 3. c. 10.	Total.
100l.	0 6d.	0 2d.	0 4d.	1s. 0d.
Above 100l. and not exceeding 200l.	0 9d.	0 3d.	0 6d.	1s. 6d.
200l. and upwards	1s. 0d.	0 4d.	0 8d.	2s. 0d.

Provided that every bill of each set shall be charged according to the rate aforesaid. 31 G. 3. c. 25. f. 3. 37 G. 3. c. 90. f. 3. 41 G. 3. U. K. c. 10. f. 3.

Provided, that nothing herein shall extend to charge any draft or order for the payment of money to the bearer on demand, bearing date on or before the day on which the same shall be issued, and at the place where drawn and issued, and drawn upon any banker, or person acting as such, and residing and transacting the business of a banker within ten miles of the place where such draft or order shall be actually drawn and issued. 31 G. 3. c. 25. f. 4. 39 G. 3. c. 107. f. 2.

Provided also, that nothing herein shall extend to notes and bills issued by the governor and company of the bank of *England*, on their paying annually a certain sum in lieu thereof. 31 G. 3. c. 25. f. 5. 39 G. 3. c. 107. f. 3.

By 48 G. 3. c. 149. The stamp duties upon bills &c. which were imposed by 44 G. 3. c. 98. (which last act had repealed the former duties) were repealed; and by Schedule, Part. 1. the following stamp duties are imposed, viz. upon every

Inland bill of exchange, draft, or order for the payment to the bearer, or to order, either on demand, or otherwise, of any sum of money,

amounting to 40s. and not exceeding 5l. 5s.	-	0	1	0
exceeding 5l. 5s. and not exceeding 30l.	-	0	1	6
30l.	—	—	50l.	-
50l.	—	—	100l.	-
100l.	—	—	200l.	-
200l.	—	—	500l.	-
500l.	—	—	1,000l.	-
3,000l.	—	—	—	-
				1 0 0

Inland bill, draft, or order, for the payment of any sum of money, though not payable to bearer or to order, if the same shall be delivered to the payee, or some person on his behalf,

The same duty as on a bill of exchange for the like sum, payable to bearer or order.

Inland bill, draft, or order, for the payment of any sum of money, weekly, monthly, or at any other stated periods, if made payable to the bearer, or to order, or if delivered to the payee, or some person on his behalf; where the total amount of the money thereby made payable shall be specified therein, or can be ascertained therefrom,

The same duty as on a bill payable to bearer or order for a sum equal to such total amount.

And

Promissory notes.

And where the total amount of the money thereby made payable shall be indefinite { The same duty as on a bill for the sum expressed only.

And the following instruments shall be deemed and taken to be inland bills, drafts, or orders, for the payment of money within the intent and meaning of this schedule, and the foregoing act, viz.

All drafts or orders for the payment of any sum of money, by a bill or promissory note, or for the delivery of any such bill or note, in payment or satisfaction of any sum of money; where such drafts or orders shall require the payment or delivery to be made, to the bearer or to order, or shall be delivered to the payee or to some person for his behalf.

All receipts given by any banker, or other person for money received, which shall entitle or be intended to entitle, the person paying the money, or the bearer of such receipts, to receive the like sum from any third person.

And all bills, drafts, or orders for the payment of any sum of money out of any particular fund, which may or may not be available; or upon any condition or contingency, which may or may not be performed or happen; if the same shall be made payable to the bearer or to order, or if the same shall be delivered to the payee or to some person on his behalf.

Foreign bill of exchange, (or bill of exchange drawn in, but payable out of Great Britain,) if drawn singly, and not in a set, { The same duty as on an inland bill of the same amount and tenor.

Foreign bills of exchange drawn in sets according to the custom of merchants; for every bill of each set, where the sum made payable thereby shall not exceed 100l.

	£.	s.	d.
Where it shall exceed 100l. and not exceed 200l.	0	2	0
200l. ——— 500l.	0	3	0
500l. ——— 1,000l.	0	4	0
1,000l. ——— 3,000l.	0	5	0
3,000l. ———	1	0	0

Exemptions.

All bills of exchange and bank post bills issued by the governor and company of the bank of *England*.

All bills, orders, remittance bills, and remittance certificates, drawn by commissioned officers, masters and surgeons in the navy, or by any commissioner or commissioners of the navy, under the authority of the 35 G. 3. c. 94.

All bills drawn pursuant to any former act of parliament, by the commissioners for victualling the navy or by the commissioners for managing the transport service, and for taking care

care of sick and wounded seamen, upon and payable by the treasurer of the navy.

All drafts or orders for the payment of any sum of money to the bearer on demand, and drawn upon any banker or person acting as a banker, who shall reside or transact the business of a banker, within 10 miles of the place where such drafts or orders shall be drawn; provided such place shall be specified in such drafts or orders: and provided the same shall bear date on or before the day on which the same shall be issued; and provided the same do not direct the payment to be made by bills or promissory note.

All bills, for the pay and allowances of his majesty's land forces, or for other expenditures liable to be charged in the public regimental or district accounts, which shall be drawn according to the form now prescribed, or hereafter to be prescribed by his majesty's orders, by the paymasters of regiments or corps, or by the chief paymaster or deputy paymaster and accountant of the army depôt, or by the paymasters of recruiting districts, or by the paymasters of detachments, or by the officer or officers authorized to perform the duties of the paymastership, during a vacancy, or the absence, suspension, or incapacity of any such paymaster as aforesaid, save and except such bills as shall be drawn in favour of contractors or others who furnish bread or forage to his majesty's troops, and who by their contracts or agreements shall be liable to pay the stamp duties on the bills given in payment for the articles supplied by them.

By the same act of 48 G. 3. c. 149. Sched. Part I. a duty is imposed upon every,

<i>Licence to be taken out yearly by any banker or bankers, or other person or persons who shall issue any promissory note for money payable to the bearer on demand, and allowed to be re-issued</i>	£. s. d.
- - - - -	of 20 0 0

And also upon every

Promissory note for the payment, to the bearer on demand, of any sum of money not exceeding

ing	1l. 1s.	-	-	0	0	4
exceeding	1l. 1s. and not exceeding	2l. 2s.	-	9	0	8
—	2l. 2s.	—	—	5l. 5s.	0	1 0
—	5l. 5s.	—	—	20l.	0	1 6
—	20l.	—	—	30l.	0	3 0
—	30l.	—	—	50l.	0	4 6
—	50l.	—	—	100l.	0	7 6

Which said note not exceeding 2l. 2s. may be re-issued, after payment thereof, as often as shall be thought fit; and the said notes for any sum, exceeding 2l. 2s. and

Promisory notes.

not exceeding 100*l.*, may be re-issued from time to time after payment thereof, until the expiration of three years from the date thereof, but not afterwards.

Promisory note, for the payment, in any other manner than to the bearer on demand, of any sum of money,

	£.	s.	d.
Amounting to 40 <i>s.</i> and not exceeding 5 <i>l.</i> 5 <i>s.</i> -	0	1	0
Exceeding 5 <i>l.</i> 5 <i>s.</i> — — 30 <i>l.</i> -	0	1	6
— — 30 <i>l.</i> — — 50 <i>l.</i> -	0	2	0
— — 50 <i>l.</i> — — 100 <i>l.</i> -	0	3	0

These notes are not to be re-issued after being once paid.

Promisory note, for the payment, either to the bearer on demand, or in any other manner than to the bearer on demand, of any sum of money,

	£.	s.	d.
exceeding 100 <i>l.</i> and not exceeding 200 <i>l.</i> -	0	4	0
— — 200 <i>l.</i> — — 500 <i>l.</i> -	3	5	0
— — 500 <i>l.</i> — — 1,000 <i>l.</i> -	0	7	6
— — 1,000 <i>l.</i> — — 3,000 <i>l.</i> -	0	10	0
— — 3,000 <i>l.</i> — — — -	1	0	0

These notes are not to be re-issued after being once paid.

Promisory note, for the payment of any sum of money by instalments, or for the payment of several sums of money at different days and times, so that the whole of the money to be paid shall be definite and certain -

{ the same duty as on a promisory note payable after date, for a sum equal to the whole amount of the money to be paid.

And the following instruments shall be deemed to be promisory notes within the meaning of this schedule, *viz.*

All notes promising the payment of any sum or sums of money out of any particular fund, which may or may not be available ; or upon any condition or contingency, which may not be performed or happen : if the same shall be made payable to the bearer or order, and if the same shall be definitive and certain, and not amount in the whole to 20*l.*

And all receipts for money deposited in any bank, or in the hands of any banker or bankers; which shall contain any memorandum or agreement importing that interest shall be paid for the money so deposited.

Exemptions from the duties on promisory notes.

All notes promising the payment of any sum or sums of money out of any particular fund which may or may not be available ; or upon any condition or contingency which may not be performed or happen, where the same shall not be made payable to the bearer or order ; and also where the

Promisory notes.

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same shall be made payable to the bearer or order, if the same shall amount to 20*l.*, or be indefinite.

And all other instruments, bearing in any degree the form or style of promisory notes, but which in law shall be deemed special agreements, except those hereby expressly directed to be deemed promisory notes.

But such of the notes and instruments here exempted from the duty on promisory notes, shall nevertheless be liable to the duty which may attach thereon, as agreements or otherwise.

Exemption as before for the governor and company of the bank of England.

And if any such bills or draughts for 40*s.* or upwards, by this act intended to be stamped, shall be written or printed on vellum, parchment, or paper, not duly stamped as aforesaid, or with a lower stamp than by this act directed, the full duty shall be charged upon the person who shall draw or make, and utter and negotiate the same. 31 G. 3. c. 25. s. 6.

Drawing Bills, &c. on unstamped paper.

By the 48 G. 3. c. 149. the former duties upon promisory notes and bills of exchange are repealed, excepting arrears: And new duties are by that act imposed, and divers new regulations relating to those instruments enacted. And these new duties are by s. 3. of this act placed under the care of the commissioners for the stamp duties.

By s. 12. If any person shall after the expiration of one calendar month from this act, make and issue, or cause to be made and issued, any bill, draft, or order for the payment of money, to the bearer on demand, upon any banker or bankers, or any acting as such, which shall be dated on any day subsequent to the day on which it shall be issued, or which shall not truly specify the place where it shall be issued, or which shall not fall within the exemption contained in the schedule (A.) annexed to the 44 G. 3. c. 98. or that annexed to this act, unless the same shall be duly stamped as a bill of exchange, according to the law in force when the same shall be issued, such person shall forfeit 100*l.*: And if any person shall knowingly take any such bill, draft, or order, in payment of, or as a security for the sum therein mentioned, he shall forfeit 20*l.*: And if any banker or bankers, or any acting as such, take any such bill, &c. in payment of or as a security for the sum therein mentioned, he shall for such a sum forfeit 20*l.*; and if any banker or bankers, or any acting as such, upon whom any such bill, &c. shall be drawn, shall pay or cause to be paid the sum of money therein expressed, or any part thereof, knowing the same to be post-dated, or knowing that the place where it was issued is not duly specified or set forth therein, or knowing that the same does not in any other respect fall within the said exemption, then such banker,

Issuing bills post-dated, not mentioning the place where drawn, without stamps.

Promissory notes.

&c. shall forfeit 100*l.* for every offence, and moreover shall not be allowed the money so paid, or any part thereof, in account.

And by *f.* 11. The making, signing, issuing, or causing to be made, signed, or issued, or accepting or paying, or causing or permitting to be accepted or paid, any bill of exchange, draft, or order, or promissory notes for the payment of money liable to any of the duties of this act, without the same being duly stamped, renders those so making &c. liable to a penalty of 50*l.*

Regulations respecting notes reissuable only at the place where first issued.

And where any promissory or other note payable to the bearer on demand shall not exceed 5*l.* 5*s.* and be marked with a stamp duty of 3*d.* and also where such note shall exceed 5*l.* 5*s.* and not exceed 30*l.* and be marked with a stamp duty of 6*d.* or shall exceed 30*l.* and not exceed 200*l.* and be marked with a stamp to denote the respective duties hereby impose, shall be paid by the person who made and signed, and first issued and negotiated the same, and at the place where the same was first issued; such person may, notwithstanding such payment, from time to time, so often as there shall be occasion after every such payment thereof, but not otherwise, again issue such note in like manner as the same was first issued; And every such note which at any time shall be paid by any person other than the person making or signing the same, or at any place other than the place of issuing the same, in pursuance of any direction, nomination, or appointment, for the payment thereof, contained or expressed in or upon such note, shall be taken to be thereupon wholly discharged, vacated, and satisfied, and shall be no longer negotiable, but shall be cancelled. And if any person shall again issue any such note, or if the person named or described therein for the payment thereof shall neglect or refuse to cancel the same after payment as aforesaid, he shall forfeit 20*l.* And if any such note shall not be cancelled, but shall be again issued or negotiated, there shall be paid the like duty which shall appear to have been charged thereon before the first issuing, or by this act charged thereon as aforesaid; which duty shall be charged on the person who shall again issue or negotiate the same. 31 G 3. c. 25. *f.* 7.

Note under 30*l.* legally stamped, may be re-issued.

But notes payable to the bearer on demand, not exceeding 5*l.* 5*s.* and 30*l.* stamped with the respective duties of 6*d.* and 1*s.* as before directed, may be again issued and negotiated by the person making or signing the same, notwithstanding such notes have been presented to and paid by him, or by any other person in pursuance of any such direction, nomination, or appointment as aforesaid, or otherwise howsoever; and so from time to time as often as occasion may require. *f.* 8.

And

And all such notes re-issued as aforesaid shall be the property of the person holding the same in like manner as upon the first issuing thereof. 31 G. 3. c. 25. s. 9. 39 G. 3. c. 107. s. 7.

To be the property of the holder.

By s. 13. of 48 G. 3. c. 149. it is enacted that after *October* 10, 1808, it shall be lawful for those who shall have issued any promissory notes for payment to the bearer on demand of any sum not exceeding 2l. 2s. each, duly stamped according to this act, from time to time after the payment thereof, to re-issue the same as often as they shall think fit without being liable to pay any further duty in respect thereof; and if such notes exceed 2l. 2s., but not 100l. and within three years from the date thereof, to re-issue the same without being liable to any further duty in respect thereof. And that all promissory notes for the payment to the bearer on demand of any sum not exceeding 2l. 2s. each *bonâ fide* issued, and in circulation before or on 1st *October* 1808, duly stamped according to the 44 G. 3. c. 98., and which shall be then re-issuable under that act, shall if the same bear date before or on the 25th *June* 1806, continue to be re-issuable until the expiration of three years from the date thereof respectively, in the same manner as if this act had not been made; and if their date be after 25th *June* 1806, they shall continue re-issuable till 24th *June* 1809 inclusive: So also where such promissory notes exceed 2l. 2s. and have been *bonâ fide* issued, and in circulation before or on the 10th *October* 1808, duly stamped according to the said 44 G. 3. c. 98, and then re-issuable under that act, they shall continue re-issuable for three years from the date thereof as if this act had not been made. And if any banker &c. shall after the said 10th *October* at any time issue or cause to be issued, for the first time, any such promissory note bearing date before or upon that day, such person shall for each offence forfeit 50l.

Regulations respecting re-issuing of notes, according to their value.

By s. 14. of the same act, after the passing of this act, all promissory notes allowed to be re-issued by the 44 G. 3. c. 98. or by this act for three years from the date thereof, and all promissory notes hereby allowed to be re-issued until 24th *June* 1809 inclusive, shall, upon the payment thereof at any time after the said 24th *June* 1809, and all promissory notes, bills of exchange, drafts, or orders for money, not allowed to be re-issued, shall upon any payment thereof be deemed to be wholly discharged, and be no longer available in any manner, but be cancelled by the person or persons paying the same; and the re-issuing any such promissory note allowed to be so re-issued as aforesaid, after the period allowed for that purpose, or any promissory note, bill of exchange, draft, or order for money, not allowed to be re-issued, at any time after the payment thereof, and the refusing or neglecting to cancel any

When re-issuable notes shall be considered as discharged, and be cancelled.

Promisory notes.

Such note, bill, draft, or order as aforesaid, shall subject the person so re-issuing, or neglecting, or refusing, to a penalty of 50*l*. And in case of any such note, bill, draft, or order being re-issued contrary to the meaning of this act, the person re-issuing the same, or causing or permitting such re-issuing, shall also be accountable to his majesty for a further duty in respect of every such note, bill, draft, or order of such and the same amount as would have been chargeable thereon, in case the same had been then issued for the first time, and so from time to time as often as the same shall be so re-issued, which further duty shall be sued for and recovered accordingly as a debt to his majesty. And if any person shall receive or take any such note, bill, draft, or order in payment of or as a security for the sum therein expressed, knowing the same to be re-issued contrary to the intent and meaning of this act, he shall forfeit 20*l*.

Exemption of
Bank of Eng-
land.

By s. 15. It is provided that the bank of *England* shall be exempted from these duties, upon paying as a compensation the yearly sum of 42,000*l*. provided that the said compensation shall be reduced to 4,000*l*. when they cease to issue promisory notes for less than 2*l*.

Of licences to
re-issue notes.

By s. 15. After 10th *October* 1808, it shall not be lawful to issue any promisory notes payable to the bearer on demand, hereby charged with a duty and liable to be re-issued as aforesaid, without taking out a licence yearly for that purpose, to be granted by two or more commissioners of stamps for the time being, or by some person deputed in that behalf by them or the major part of them, on payment of the duty charged thereon in the schedule hereto annexed: and a separate licence shall be taken out for every town or place where any such promisory notes shall be issued, by, or by any agent or agents for any banker or other person; except that one licence yearly shall be sufficient for all the towns or places where any such banker or other person, shall have established a branch of his bank, or have employed an agent for the issuing of such promisory notes, previously to this act, so that every such town or place shall be notified to the stamp office, and be specified in the first licence to be granted in pursuance of this act, and that an affidavit of the fact shall be transmitted to the stamp office at the time of applying for such licence; and every such licence shall specify the proper name or names, and place or places of abode of the person or persons to whom the same shall be granted, and also the name of the town or place, towns or places where, and the name of the bank, firm, or title, under which such notes are to be issued; and where any such licence shall be granted to persons in partnership, the same shall specify and set forth the names and places of abode of all the persons concerned in the partnership, whether
all

all their names shall appear on the promissory notes to be issued by them or not; and in default thereof, such licence to be absolutely void: and every such licence which shall be granted between the 10th *October* and the 11th *November* shall be dated on the 11th *October*; and if granted at any other time, on the day on which granted; and every licence to continue in force from the day of the date till 10th of *October* following, both inclusive.

By *f. 18.* Those applying for such licences shall produce and leave with the proper officer, a specimen of the promissory notes proposed to be issued, and if any one by himself or his agent shall issue any such promissory note, allowed to be re-issued as aforesaid, without a licence, or at any other town or place, or under any other firm or title, than shall be specified in his licence, he shall forfeit for each offence 100*l.*

By *f. 20.* Where any such licence shall be granted to any persons in partnership, the same shall continue in force for the issuing of promissory notes under the firm or title therein specified, till the 10th *October* inclusive, notwithstanding any alteration in the partnership.

If any person shall write or sign, or accept or pay or cause the same to be done, any such bill, note, draft, or order, liable to any of the duties aforesaid, without being first duly stamped as aforesaid, he shall forfeit 20*l.* *f. 10. 39 G. 3. c. 107.*

But by 37 *G. 3. c. 136.* the holder of any bill of exchange, promissory or other note, draft, or order made after 12th *July* 1797, and liable to any stamp duty, which shall be stamped with a stamp of a different denomination than is required by the aforesaid acts, if the same be of equal or superior value, may produce the same to the commissioners or officers of stamps within the times hereafter mentioned, who shall, upon payment of the duty imposed by the above acts, and the penalty hereafter mentioned over and above the said duty, stamp the same, and give a receipt for such penalty and duty on the back thereof, which shall be valid. *f. 5.*

And if the same be produced to the said commissioners before payable, according to the tenure and effect thereof, it shall be stamped on payment of the duty, and the penalty of 40*s.* but if payable before the production thereof, then the same shall not be stamped, but on payment of the duty and the penalty of 10*l.* *Id. f. 6.*

Provided always, that no person shall have power by virtue of this act to make any bills of exchange, promissory or other notes, drafts, or orders for the payment of money, in any other manner than they might lawfully have done before the passing thereof. 31 *G. 3. c. 25. f. 11.*

The aforesaid duties to be under the management of the commissioners of the stamp duties. *f. 18. 39 G. 3. c. 107. f. 23. 41 G. 3. U. K. c. 10. f. 4.*

Not to be avoided by change of partners.

Penalty on writing, &c. unstamped bills, &c.

Bills, &c. may be stamped after written.

Penalty on stamping the same.

No person to make any bills, &c. but as might have done before.

To be under the commissioners of the stamp duties.

Promisory notes.

Paper, &c. to be stamped before written upon.

And all vellum, parchment, or paper, by this act liable to any stamp duty, shall be stamped before the same be written or printed upon, and shall not be stamped afterwards under any pretence whatsoever. 31 G. 3. c. 25. s. 19.

Penalties how to be recovered and applied.

All penalties by this act incurred may be sued for in the courts at *Westminster*: or any neighbouring justice may hear and determine any offence which subjects the offender to any pecuniary penalty; who may on complaint made within three calendar months summon the party accused and the witnesses, and examine into the matter of fact; and on confession, or the oath of one witness, may give judgment therein, and levy such penalty by distress on the goods of the offender, which if not redeemed within six days may be sold; and such penalty shall be distributed half to the king and half to the informer; and for want of sufficient distress, the offender shall be committed to prison for three calendar months, unless such penalty be sooner paid. s. 24, 25.

Appeal.

If any person shall find himself aggrieved by the judgment of such justice, he may, upon giving security to the amount of such penalty and costs, appeal to the next sessions which shall happen fourteen days next after such conviction, on giving reasonable notice; and in case such judgment be affirmed, they may award the person appealing to pay such costs as to them shall seem meet. *Id.*

Mitigation.

Provided: nevertheless, that such justice may, where he shall see cause, mitigate any such penalty, so as not to reduce the same to less than one moiety thereof, over and above the costs. s. 26.

Witnesses.

Witnesses not appearing, having been duly summoned, without reasonable cause, to be allowed by such justice, or refusing to give evidence, shall forfeit 40s. to be recovered in like manner. s. 27.

Counterfeiting stamps.

Persons counterfeiting or forging any stamp hereby directed to be made use of shall be guilty of felony without benefit of clergy. s. 29.

Powers of former acts to extend to these acts.

And all powers given by any former act relating to the stamp duties, shall extend to these acts. 31 G. 3. c. 25. s. 30. 39 G. 3. c. 107. s. 24. 41 G. 3. U. K. c. 10. s. 9.

Promisory notes made out of Great Britain.

By 48 G. 3. c. 149. s. 21. After the passing of this act, no promisory notes for the payment of money, made out of *Great Britain*, or purporting to be made out of *Great Britain*; or purporting to be made by or on the behalf of any person or persons resident out of *Great Britain*, whether the same shall be made payable in *Great Britain* or not, shall be negotiable, or be negotiated, or circulated, or paid in *Great Britain*, unless the same shall have paid such duty, and be stamped as the law requires for promisory notes of the like tenor and value made in *Great Britain*; and if any person shall circulate or negotiate, or offer in payment, or shall receive,

ceive, or take in payment any such promissory note, or shall demand or receive payment of the whole, or any part of the money mentioned in such promissory note, from or on account of the drawer thereof in *Great Britain*, the same not being so duly stamped; or if any person or persons in *Great Britain* shall pay or cause to be paid the sum of money expressed in any such note, not being so duly stamped, or any part thereof, either as drawer, or in pursuance of any nomination or appointment for that purpose therein contained, the person or persons so offending shall forfeit for each offence 20*l*. This not to extend to promissory notes made and payable only in *Ireland*.

Irish notes.

And by 43 G. 3. c. 139. if any person within any part of the united kingdom of *Great Britain* and *Ireland* falsely make, forge, or counterfeit, or cause or procure to be falsely made, forged, or counterfeited, or knowingly aid or assist in the false making, forging, or counterfeiting, any bill of exchange, or any promissory note, undertaking, or order for the payment of money, purporting to be the bill of exchange, promissory note, undertaking, or order for the payment of money, of any foreign prince, state, or country whatsoever, or of any minister or officer employed in the service of any foreign prince &c. or of any person, or company of persons resident in any foreign state or country, or of any body corporate and politic, and body in the nature of a body corporate and politic, constituted by any foreign prince or state, with intent to deceive or defraud his majesty his heirs and successors, or any such foreign prince, state, or country, or any person or company of persons whomsoever, or any body corporate and politic, or body in the nature of a body corporate and politic whatsoever, whether the same be respectively resident, carrying on business, constituted or being in any part of the united kingdom, or in any foreign state or country; and whether such bill, note, or order be in *English* or in any foreign language, or partly in one and partly in the other; or if any person shall, within any part of the said united kingdom, tender in payment or exchange, or otherwise utter or publish as true, any such false, forged, or counterfeited bill, note, undertaking, or order, knowing the same to be false, forged, or counterfeited, with intent to deceive or defraud his majesty &c. or any foreign prince, state, or country, or any person or company of persons, or any body corporate and politic, or body in the nature of a body politic and corporate as aforesaid, then every such offender shall be deemed guilty of felony, and on conviction shall be transported not exceeding 14 years *f. 1.*

Persons forging, &c. foreign bills of exchange, &c. or tendering the same in payment, guilty of felony, and liable to be transported.

No person shall, within the united kingdom, engrave, cut, etch, scrape, or by any other means make or knowingly aid

Persons engraving plates for foreign bills, &c. or printing them,

without lawful
authority, guilty
of a misdemea-
nor.

aid in the engraving &c. or by any other means making in or upon any plate, any bill of exchange, or any promissory note or undertaking, or order for the payment of money, purporting to be the bill, note, undertaking, or order of any foreign prince, state, or country, or of any minister or officer employed in the service of any such prince &c. or of any person, or company of persons, resident in any foreign state or country, or of any body corporate and politic, or body in the nature of a body corporate and politic, or constituted by any foreign prince or state, or any part of any such bill, note, undertaking, or order, without an authority in writing for that purpose from such foreign prince &c. or from some person duly authorized to give such authority, or shall within any part of the said united kingdom without such authority as aforesaid, by means of any such plate, or by any other device or means make or print any such foreign bill, note, undertaking, or order for the payment of money, or any part thereof, or knowingly, wilfully, and without lawful excuse, (the proof thereof shall lie upon the party accused), have in their custody any such plate or device, or any impression taken from the same; and if any person shall offend in any of the cases aforesaid, he shall be deemed guilty of a misdemeanor and breach of the peace, and being thereof convicted shall be liable for the first offence to be imprisoned for not exceeding six months, or to be fined or to be publicly or privately whipped, or to suffer one or more of the said punishments, and for the second offence to be transported to any of his majesty's colonies for the term of 14 years: Provided that nothing herein shall extend in any manner whatsoever to repeal or alter any law now in force for the prevention or punishment of the crime of forgery in any respect whatsoever within any part of the said united kingdom. §. 2.

Act not to alter
any law in force
against forgery.

Persons against
whom any bill
of indictment is
found not allow-
ed to traverse the
same to a sub-
sequent assizes.

And no person against whom any bill of indictment shall be found at any assizes or sessions for any offence against this act shall be entitled to traverse the same to any subsequent assizes or sessions, but the court at which such bill of indictment shall be found shall forthwith proceed to try the party against whom the same shall be found, unless they shew good cause, to be allowed by the court, why their trial should be postponed. §. 4.

Certificates of
former convic-
tions to be pro-
duced in cases
where persons
are tried for 2d
offences.

And if any person shall be convicted of any offence against this act, and shall afterwards be guilty of the like offence in any other county or place, the clerk of the assize, clerk of the peace, or town clerk, for the county &c. or place where such former conviction shall have been had, shall, at the request of the prosecutor, or any other on his majesty's behalf, certify the same by a transcript in few words, containing the effect and tenor of such conviction, for which certificate 2s. 6d.

and

and no more shall be paid; and such certificate being produced in court, and the hand writing of such clerk of assize, or of the peace, or town clerk thereto being proved, shall be evidence of such former conviction. *f. 5.*

Any action or suit brought against any person for any thing done in pursuance hereof shall be commenced within three calendar months after the fact committed, and not afterwards, and shall be brought in the county or place where the cause of action shall arise, and not elsewhere, and the defendant in such action or suit may plead the general issue, and give this act and the special matter in evidence; and if it shall appear to be done in pursuance hereof, or if any such action or suit shall be brought after the time limited, or in any other county or place, then the jury shall find for the defendant; and if upon the trial a verdict shall pass for the defendant, or the plaintiff become nonsuit, or discontinue, or upon demurrer judgment be given against the plaintiff, the defendant shall recover treble costs, and have the like remedy for the same as any defendant hath for costs of suit in other cases by law. *f. 9.*

Limitation of actions.

General issue.

Treble costs.

Prophecies.

[33 H. 8. c. 14.—1 Ed. 6. c. 12 —3 and 4 Ed. 6. c. 15.—
5 El. c. 15.]

If any person shall advisedly and directly advance, publish, and set forth by writing, printing, signing, or any other open speech or deed any fond, fantastical, or false prophecy, upon or by the occasion of any arms, fields, beasts, badges, or such other like things accustomed in arms, cognizances, or signets, or upon or by reason of any time, year, or day, name, bloodshed, or war, to the intent thereby to make any rebellion, insurrection, dissension, loss of life, or other disturbance in the realm; and shall be convicted thereof before a judge of assize, or justice of the peace, within six months after the offence committed, he shall for the first offence be imprisoned for a year, and forfeit 10*l.*; and for the second offence shall be imprisoned for life, and forfeit his goods: half the forfeitures to the king, and half to him who shall sue for them in any court of record. *5 El. c. 15.*

The intent of the act was, to abolish certain foolish and superstitious notions which prevailed in the times of ignorance, as were set forth in a statute made in the 33 H. 8. c. 14. reciting—Where divers and sundry persons, making their foundation by prophecies, have taken upon them a knowledge (as it were) what shall become of them which bear in their

their arms, cognizance, or badge,—fields, beasts, fowls, or any other thing which hath been used or accustomed to be put in any of the same, or in and upon the letters of their names, have devised, descanted, and practised to make folk think, that by their untrue guesses it might be known what good or evil things should come, happen, or be done, by or to such persons as bore or had such badges or cognizances, or had such letters in their names to the great terror and destruction of such noble personages, of whom such false prophecies have or should hereafter be set forth, whereby in times past many noblemen have suffered, and (if their prince would give any ear thereto) might hap to do hereafter; And therefore enacted that he who should do so should be guilty of felony without benefit of clergy.

This statute was repealed in the lump by the 1 Ed. 6. c. 12. which repealed all statutes making any offences felony from the first year of the reign of king *Henry* the eighth. And the substance thereof was re-enacted, with a mitigation of the penalty, by the 3 & 4 Ed. 6. c. 15. Which statute expiring, the 5 El. c. 15. was enacted as above.

Protestant Dissenters. See Dissenters.

Public Worship.

[50 Ed. 3. c. 5.—1 R. 2. c. 15.—1 Ed. 6. c. 1.—2 & 3 Ed. 6. c. 1. f. 7.—1 Mar. sess. 2. c. 3.—1 El. c. 2. f. 14. 24.—23 El. c. 1. f. 5. 8. 11. 12.—29 El. c. 6. f. 3. 4. 5. 6. 7.—1 J. c. 4. f. 2.—3 J. c. 4. f. 2. 8. 9. 11. 27. 28. 32. 33. 34.—3 J. c. 5. f. 8. 22.—13 & 14 C. 2. c. 4. f. 19. 20. 21.—1 W. c. 18.—22 G. 2. c. 33. art. 1.]

Impugners of
the rites of the
church.

IMPUGNERS of the book of common prayer, of the 39 articles, of the rites and ceremonies of the church of *England*, of the episcopal government of the church, or of the form of ordering and consecrating archbishops and bishops, shall be *ipso facto* excommunicated and not restored but upon repentance, and public recantation. *Can.* 4, 5, 6, 7, 8.

Speaking irre-
verently of the
sacrament.

If any person shall speak irreverently of the sacrament of the Lord's supper, he shall suffer imprisonment, and make fine and ransom at the king's will. And three justices (1 *Q.*) may take information by the oaths of two witnesses; and afterwards, at the sessions; may inquire thereof by the oath of 12 men upon indictment. And they shall, at the sessions where the offender shall be indicted, direct a writ to the bishop to appear by himself or deputy at the trial. But no person shall

shall be molested, but within three months after the offence committed. 1 *Ed. 6. c. 1.*

All persons, having no lawful or reasonable excuse to be absent, shall resort to the parish church or chapel, or upon reasonable let thereof, to some usual place where divine service shall be performed, according to the liturgy and practice of the church of *England*, upon every *Sunday* and holiday; on pain of punishment by the censures of the church, or of forfeiting 1s. for every offence to the poor, to be levied by the churchwardens by distress. 1 *El. c. 2. f. 14-24.* Except dissenters qualified by the act of toleration. 1 *W. c. 18.*

Penalty of 12d. a Sunday for not resorting to church.

And he who is absent from his own parish church shall be put to prove where he went to church. 1 *Haw. c. 10. f. 4.*

And any justice of the peace, on proof unto him made (in one month after default in coming to church on *Sundays*) by confession, or oath of witness, may call the party before him; and if he shall not make a sufficient excuse, and due proof thereof, to the justice's satisfaction, such justice may give warrant to the churchwarden to levy 12d. to the use of the poor, by distress. For want of distress, commitment till paid. 3 *J. c. 4. f. 27. 28.*

Every person above the age of 16 years, who shall not repair to some church, chapel, or usual place of common prayer, being convicted thereof before the judges of assize, or justices in sessions, shall forfeit 20l. a month; one third to the king; one third to the maintenance of the poor of the parish, and the houses of correction, and of impotent and maimed soldiers, as the lord treasurer, chancellor, and chief baron of the exchequer shall order; and one third to him who shall sue in any court of record. If not paid in three months after judgment, he shall be imprisoned till he pay or conform himself to go to church. 23 *El. c. 1. f. 5. 8. 11.* 29 *En. c. 6. f. 7.*

Penalty of 20l. a month for not resorting to church.

This penalty of 20l. a month dispenseth not with the forfeiture of 12d. a *Sunday*; for both may well stand together; and the 12d. is immediately forfeited upon the absence of each particular day. 1 *Haw. c. 10. f. 7.*

And every offender in not repairing to divine service, having been once convicted (and not conforming) shall pay 20l. a month into the exchequer, in the term of *Easter* or *Michaelmas* which shall be next after such conviction; and also shall, without any other indictment or conviction, for every month after such conviction so long as he shall not conform, pay into the exchequer in every *Easter* and *Michaelmas* term, as much as shall then remain unpaid, after such rate of 20l. a month. And if default shall be made in any part of such payment, the king may, by process out of the exchequer, seize all the goods, and two parts of the lands, of such offender. 29 *El. c. 6. f. 3, 4, 5, 6.* 3 *J. c. 4. f. 8, 9.*

Or

Public Worship.

Or the king may refuse the 20l. a month, though it be duly tendered, and seize two parts of the lands at his option. 3 *J. c. 4. f. 11.*

But copyhold lands are not within the statutes, in respect of the prejudice which would accrue to the lord by the loss of his services. 1 *Haw. c. 10. f. 16.*

Every person who shall usually on *Sundays* have in his house divine service, as established by law, and be thereat himself usually present, and shall four times a year go to the parish church or other common church or chapel, shall not incur any penalty for not repairing to church. 23 *El. c. 1. f. 12.*

And this also shall not extend to qualified protestant dissenters. 1 *W. c. 18.*

Penalty for harbouring a recusant,

Every person who shall retain in his service, or shall relieve, keep, or harbour in his house, any servant, sojourner, or stranger, who shall not repair to church, but shall forbear for a month together, not having reasonable excuse, shall forfeit 10l. for every month he shall continue in his house such person so forbearing. And the justices in sessions may determine the same. 3 *J. c. 4. f. 32, 33, 34.*

Recusant disabled as to offices.

No recusant convict shall practise law or physic, nor shall be judge or minister of any court, or bear any military office by land or sea; and shall forfeit for every offence 100l. And shall also be disabled to be executor, administrator, or guardian. 3 *J. c. 5. f. 8. 22.*

Recusant conforming.

A recusant conforming himself shall be discharged of all penalties, which he might otherwise sustain by reason of his recusancy. 1 *J. c. 4. f. 2.*

Public worship in the navy.

All commanders, captains, and officers at sea, shall cause the public worship of Almighty God, according to the liturgy of the church of *England*, to be performed in their respective ships; and prayers and preachings by the chaplains shall be performed diligently. 22 *G. 2. c. 33. art. 1.*

Qualifications of lecturer.

No person shall be received as a lecturer, or allowed to preach or read any lecture or sermon, without license from the bishop, and assenting to the 39 articles, and reading the common prayer before his first sermon, and on the first lecture day of every month; on pain of three months imprisonment, for every offence, by two justices of the peace, on certificate from the bishop of the offence committed. 13 & 14 *C. 2. c. 4. f. 19, 20, 21.*

Disturbers of public worship.

By the 1 *Mar. sess. 2. c. 3.* If any person shall disturb a preacher in his sermon by word or deed, he shall be apprehended and carried before a justice of the peace, who shall commit him to safe custody, and within six days he and another justice shall examine the fact, and if they find him guilty by two witnesses, or confession, they shall commit him to gaol

gaol for three months, and further to the next sessions ; and if at the sessions he repents and is reconciled, he shall be discharged on finding sureties for his good behaviour for a year ; if not, he shall be continued in gaol till he does ; saving the ecclesiastical jurisdiction ; and he shall not be punished both ways.

This statute though made in queen *Mary's* reign, extendeth to the divine service now established. *Gibb. 372.*

And by the *1 W. c. 18. s. 18.* If any person shall wilfully and of purpose come into any church, chapel, or other congregation permitted by the act of toleration, and disquiet and disturb the same, or misuse any preacher or teacher ; he shall on proof thereof before one justice, by two witnesses, find two sureties to be bound by recognizance in 50l. ; and in default thereof shall be committed till the next sessions, and on conviction there of the said offence he shall forfeit to the king 20l.

But it shall be lawful for all men, as well in churches, chapels, oratories, or other places, to use openly any psalms or prayer taken out of the bible, at any due time, not letting or omitting thereby the service. *2 & 3 Ed. 6. c. 1. s. 7.*

The court of king's bench refused to grant a *certiorari*, to remove an indictment at the sessions, for a person not behaving himself modestly and reverently at the church, during divine service ; which although punishable by ecclesiastical censures, yet the court conceived it a proper cause within cognizance of the justices of the peace. *1 Keb. 491.* And this was before the above-mentioned statute of the *1 W. c. 18.*

No clergyman shall be arrested in any church or church-yard whilst he attends to divine service ; on pain of the imprisonment of the offender and ransom at the king's will, and gree to the party arrested. *50 Ed. 3. c. 5. 1 R. 2. c. 15.*

But the arrest notwithstanding, if not on a *Sunday*, is good in law. *Watson, c. 34.*

Arresting a clergyman attending divine service.

Purveyors.

[12 C. 2. c. 24.]

ANCIENTLY the king's court was supplied with necessities from the ancient demesnes of the crown ; and in respect thereof, the tenants of those lands had many privileges, which they still enjoy : But this method being found to be troublesome and inconvenient was by degrees disused ; and afterwards the king was wont to appoint certain officers to buy in provisions for his household, who were called purveyors,

Abuse of purveyors.

veyors, and claimed many privileges by the prerogative of the crown. 2 *Inst.* 542. 1 *Haw. c.* 47. *f.* 1.

Purveyance
taken away.

The several laws which restrained the exorbitance of these purveyors make up a pretty large title in the old books; but these laws proving ineffectual to remedy the evil complained of, at length by the 12 C. 2. c. 24. purveyance was entirely taken away; by which it is enacted that no sum of money, or other thing, shall be taken for any provision, carriages, or purveyances for the king.

And that no person under colour of purveyance shall take any timber, fuel, cattle, corn, grain, malt, hay, straw, victual, cart, carriage, or other thing, without consent of the owner; nor shall require any to furnish any horses, oxen, or other cattle, carts, plows, wains, or other carriages, for the use of the king or his household, without the owner's consent:

On pain of being committed to gaol by a justice of the peace, and the constable, until the next sessions, to be there indicted; and also of paying to the party treble damages and treble costs on an action at law.

Quakers.

SO far as quakers are concerned in the act of toleration, amongst other protestant dissenters, see title *Dissenters*.

For quakers tithes, see title *Tithes*.

For quakers oaths, see title *Oaths*.

Quarantine. See *Plague*.

Rape.

Sect. I. <i>What it is.</i>	Page 112
[6 R. 2. c. 6.—18 El. c. 7. <i>f.</i> 4.]	
II. <i>Evidence on an indictment of rape</i>	113
[3 Ed. 1. c. 13.—13 Ed. 1. c. 34.— 18 Eliz. c. 7.]	
III. <i>Punishment of rape</i>	115
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I. *What it is.*

Rape, what.

RAPE is when a man hath carnal knowledge of a woman, by force, and against her will. 2 *Inst.* 180. 1 *Haw. c.* 41. *f.* 1.

Also,

Also, if any person shall unlawfully and carnally know, Child under ten. and abuse any woman child, under the age of ten years, whether with her consent or against it, he shall be guilty of felony without benefit of clergy. 18 El. c. 7. §. 4.

The offence of a rape is no way mitigated by shewing that the woman at last yielded to the violence, if such her consent were forced by fear of death or of duress. 1 Haw. c. 41. §. 2. Consenting at last.

Also, it is not a sufficient excuse in the ravisher to prove that the woman is a common strumpet; for she is still under the protection of the law, and may not be forced. *Id.* Ravishing a common strumpet.

Nor is it any excuse that she consented after the fact. *Id.* Consenting after the fact.

And by the 6 R. 2. c. 6. when any woman is ravished, and afterwards doth consent to the ravisher, they shall both of them be disabled to have any inheritance, dower, or joint tenement, but the next of blood shall enter. And the next of kin to the woman ravished may have an appeal against the ravisher, notwithstanding such consent; and the defendant shall not be received to wage battle.

It is said by Mr. *Dutton*, that if a woman at the time of the supposed rape do conceive with child by the ravisher, this is no rape; for (he says) a woman cannot conceive except she doth consent. And this he hath from *Stamford and Britton*, and *Finch*. *Dalt.* c. 160. But Mr. *Hawkins* observes that this opinion seems very questionable; not only because the previous violence is no way extenuated by such a subsequent consent; but also, because if it were necessary to shew that the woman did not conceive, the offender could not be tried till such time as it might appear whether she did or not; and likewise because the philosophy of this notion may be very well doubted of. 1 Haw. c. 41. §. 2. And L. *Hale* says, this opinion in *Dutton* seems to be no law. 1 H. H. 731. Woman ravished conceiving.

II. Evidence on an indictment of rape.

The party ravished may give evidence on oath, and is in law a competent witness; but the credibility of her testimony, and how far forth she is to be believed, must be left to the jury, and is more or less credible according to the circumstances of fact that concur in that testimony. 1 H. H. 633. The woman's oath.

For instance, if the witness be of good fame; if she presently discovered the offence, and made pursuit after the offender; shewn circumstances and signs of the injury, whereof many are of that nature that only women are the most proper examiners and inspectors; if the place wherein the fact was done were remote from people, inhabitants, or passengers; if the offender fled for it; these, and the like, are Circumstances in favour of it. concurring

Circumstances
in disfavour of it.

concurring evidences to give greater probability to her testimony, when proved by others as well as herself. *Id.*

But on the other side, if she concealed the injury for a considerable time after she had opportunity to complain: the place, where the fact was supposed to be committed, were near to inhabitants or common recourse or passage passengers, and she made no outcry when the fact was supposed to be done, when and where it is probable she might be heard by others; or if a man prove himself to be in another place, or in other company, at the time she charges him with the fact; or if she be wrong in the description of the place, or swear the fact to be done in a place where it was impossible the man could have access to her at that time, as if the room were locked up, and the key in the custody of another person; these and the like circumstances carry a strong presumption that her testimony is false or feigned. *Id.*

In a work of this kind it is not necessary to enter into detail of the judicial opinions that have at different times been delivered on this subject; they are chronologically and correctly given at large in 1 *Eqst's P. C. c. 10. f. 3.* It is sufficient to state generally, that now the judges consider it to be the law of the land, that emission as well as penetration must take place to constitute this offence. But though there must be an emission, it is not necessary that there should be direct and positive evidence of that fact: this like all other facts may be established in proof by the circumstances attending it. In various cases the female cannot swear to the fact, though it take place; as in the instance of infants; or in the case of some adults, who may have been rendered senseless by the previous violence of the man, or of others, who are never conscious of the fact when it does take place. Without however entering more minutely into the discussion of such a subject, it will be a sufficient hint to magistrates, before whom a person may be brought charged with this crime, to attend to this distinction; if penetration be proved, and it appear on the whole that the man gratified his passion and appeared to be satisfied, it will be evidence from which a jury would be directed to infer emission; and consequently in such a case the magistrates ought to commit the party to take his trial for the capital offence. But if on the contrary the man were disturbed or interrupted before he appeared to have completed his purpose, in such a case a jury would infer that there had been no emission; and in such a case the justices should commit or bind the party over to take his trial for a misdemeanor, for an attempt to commit a rape only.

And with regard to penetration, it will be sufficient to make one observation only; that any penetration, however trifling, though

though it do not break the hymen, is sufficient for this purpose. *R. v. Ruffen, O. B. Oet. 1777. 1 East's P. C. c. 10. f. 3.*

It has been made a doubt at different periods in the history of our courts of law, at what particular age an infant could be sworn to prove a rape, or an assault with intent to ravish her. But in the last case on this subject, *R. v. Brazier, E. 1779*, all the judges agreed that a child of any age, if she be capable of distinguishing between good and evil, may be examined on oath; and that a child, of whatever age, cannot be examined unless sworn. *1 East's P. C. c. 10. f. 5.*

Where the evidence of children is admitted, it is much to be wished, in order to render their evidence credible, that there should be some concurrent testimony of time, place, and circumstances, in order to make out the fact; and that the conviction should not be grounded singly on the unsupported accusation of an infant under years of discretion. There may be therefore, in many cases of this nature, witnesses who are competent, that is, who may be admitted to be heard; and yet, after being heard, may prove not to be credible, or such as the jury is bound to believe. For one excellence of the trial by jury is, that the jury are triers of the credit of the witnesses as well as of the truth of the fact.

The party grieved is so much considered as a witness of necessity in this, as in other personal injuries, that if one assist another man to ravish his own wife, she is admissible as a witness against him. *L. Castlehaven's case*; and *L. Audley's*, cited in *1 East's P. C. c. 10. f. 6.*

Upon the whole; rape, it is true, is a most detestable crime, and therefore ought severely and impartially to be punished with death: but it must be remembered, it is an accusation easily to be made, and hard to be proved, and harder to be defended by the party accused, though never so innocent. Therefore a wise jury will be cautious upon trials of offences of this nature that they be not so much transported with indignation at the heinousness of the offence as to be over hastily carried to the conviction of the person accused thereof by the confident testimony sometimes of malicious and false witnesses. *1 H. H. 635, 636.*

General caution.

III. Punishment of rape.

Of old time rape was felony, for which the offender was to suffer death: afterwards the offence was made less, and the punishment changed from death to the loss of those members whereby they offended; that is to say, it was changed to castration and loss of his eyes, unless she that was ravished, before judgment demanded him for her husband. *2 Inst. 180.*

Felony without benefit of clergy.

Then by the statute of *3 Ed. 1. c. 13.* it was made a trespass,

pass, subjecting the offender to two years imprisonment and a fine at the king's will; and it was again made felony by the 13 Ed. 1. c. 34.; and at last by the 18 El. c. 7. was excluded from the benefit of the clergy.

Pardon.

And no charter of pardon shall be allowed for rape, unless the rape be specified therein. 23 R. 2. fl. 2. c. 1.

IV. Principal and accessory.

Persons present and aiding are principals.

Mr. Hawkins says, all who are present and actually assist a man to commit a rape, may be indicted as principal offenders, whether they be men or women. 1 Haw. c. 41. f. 6.

So one woman may be a principal to the ravishment of another.

Not present, accessories.

And L. Hale says, that by the 18 El. c. 7. the principals in rape are ousted of clergy, whether they be principals in the first degree, to wit, he that committed the fact; or principals in the second degree, to wit, present, aiding, and abetting; but accessories, before and after, have their clergy. 1 H. H. 633.

Indictment for a rape.

Westmorland. **T**HE jurors for our lord the king upon their oath present, that A.Q. Jate of — in the county of — yeoman, not having the fear of God before his eyes, but being moved and seduced by the instigation of the devil, on the — day of — in the — year of the reign of — with force and arms, at — in the county aforesaid, in and upon one A. I. spinster, in the peace of God, and of our said lord the king, then and there being, violently and feloniously did make an assault, and her the said A. I. against the will of her the said A. I. then and there feloniously did ravish and carnally know; against the peace of our said lord the king, and against the form of the statute in such case made and provided.

Receipts. (Stamp duty on)

Sect. I. Duty on legacies and distributive shares of intestate estates

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II. Duty on receipts for money

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I. Duty on legacies and distributive shares of intestate estates.

BY 36 G. 3. c. 52. after reciting that it is expedient that the duties imposed by 20 G. 3. c. 28. 23 G. 3. c. 58. and 29 G. 3. c. 51. should be repealed; as to such receipts or discharges

discharges for which new duties are hereby granted in lieu thereof, and that the provisions made by the said several acts for collecting the duties thereby imposed should be further enforced as to the duties not thereby repealed, the said duties by the said several acts imposed on receipts and discharges for legacies given by will or other testamentary instrument, and for shares or parts of residue of personal estate upon which any duty is hereby imposed, were repealed, and others imposed.

By the 44 G. 3. c. 98. The former duties under the care of the commissioners for stamp duties were repealed, and new duties were imposed upon legacies. By the 45 G. 3. c. 28. additional duties were imposed, and by the 48 G. 3. c. 149, the following were imposed (being by s. 3. of this last act placed under the provisions of former acts relating to such duties) and those imposed by former acts were repealed.

Schedule, Part III.

Legacies and successions to personal or moveable estate upon intestacy.

I. Where the testator, testatrix, or intestate died before or upon the 5th of April 1805.

For every legacy, specific or pecuniary, or of any other description, of the amount or value of 20*l.* or upwards, give by any will or testamentary instrument of any person who died before or upon the 5th day of April 1805, out of his or her personal or moveable estate, and which shall be paid, delivered, retained, satisfied, or discharged, after the 10th of October 1808 :

Also for the clear residue (when devolving to one person) and for every share of the clear residue (when devolving to two or more persons) of the personal or moveable estate of any person who died before or upon the 5th of April 1805, (after deducting debts, funeral expences, legacies, and other charges first payable thereout) whether the title to such residue, or any share thereof, shall accrue by virtue of any testamentary disposition, or upon a partial or total intestacy; where such residue, or share of such residue, shall be of the amount or value of 20*l.*, or upwards, and where the same shall be paid, delivered, retained, satisfied, or discharged, after the 10th of October 1808 :

Where any such legacy, or residue, or share of such residue, shall have been given, or devolved, to or for the benefit of a brother or sister of the deceased, or any descendant of a brother or sister of the deceased; a duty at and after the rate of 2*l.* 10*s.* per cent. on the amount of the value thereof

2 10 c

Where to or for the benefit of a *brother or sister of the father or mother of the deceased; or any descendant of a brother or sister of the father or mother of the deceased*; a duty at and after the rate of 4l. per cent. on the amount or value thereof - 4 9 0

Where to or for the benefit of a *brother or sister of a grandfather or grandmother of the deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased*; a duty at and after the rate of 5l. per cent. on the amount or value thereof - 5 0 0

Where to or for the benefit of any person in any other degree of collateral consanguinity to the deceased, than is above described, or to or for the benefit of any stranger in blood to the deceased: a duty at and after the rate of 8l. per cent. on the amount or value thereof - 8 0 0

II. Where the testator, testatrix, or intestate, shall have died after the 5th of April 1805.

For every legacy, specific or pecuniary, or of any other description, of the amount or value of 20l. or upwards, given by any will or testamentary instrument, of any person who shall have died, after the 5th of April 1805; either out of his or her personal or moveable estate, or out of or charged upon his or her real or heritable estate, or out of any monies to arise by the sale, mortgage, or other disposition of his or her real or heritable estate, or any part thereof, and which shall be paid, delivered, retained, satisfied, or discharged after the 10th of October 1808:

Also, for the clear residue (when devolving to one person) and for every share of the clear residue (when devolving to two or more persons) of the personal or moveable estate of any person who shall have died after the 5th of April 1805, (after deducting debts, funeral expences, legacies, and other charges first payable thereout) whether the title to such residue, or any share thereof, shall accrue by virtue of any testamentary disposition thereof, or upon a partial or total intestacy, where such residue, or share of residue, shall be of the amount or value of 20l. or upwards, and where the same shall be paid, delivered, retained, satisfied, or discharged after the 10th of October 1808:

And also for the clear residue (when given to one person) and for every share of the clear residue (when given to two or more persons) of the monies to arise from the sale, mortgage, or other disposition of any real or heritable estate, directed to be sold, mortgaged, or otherwise disposed of, by any will or testamentary instrument, of any person who shall have died after the 5th of April 1805, (after deducting

ing debts, funeral expences, legacies, and other charges first made payable thereout, if any) where such residue or share of residue shall amount to 20*l.* or upwards, and where the same shall be paid, retained, or discharged after the 10th of October 1808 :

Where any such legacy or residue, or any share of such residue, shall have been given, or have devolved, to or for the benefit of *a child of the deceased, or any descendant of a child of the deceased* ; a duty at and after the rate of 1*l.* per cent. on the amount or value thereof - 1 0 0

Where to or for the benefit of *a brother or sister of the deceased, or any descendant of a brother or sister of the deceased* ; a duty at and after the rate of 2*l.* 10*s.* per cent. on the amount or value thereof - 2 10 0

Where to or for the benefit of *a brother or sister of the father or mother of the deceased, or any descendant of a brother or sister of the father or mother of the deceased* ; a duty at and after the rate of 4*l.* per cent. on the amount or value thereof - 4 0 0

Where to or for the benefit of *a brother or sister of a grandfather or grandmother of the deceased, or any descendant of a brother or sister of a grandfather or grandmother of the deceased* ; a duty at and after the rate of 5*l.* per cent. on the amount or value thereof - 5 0 0

Where to or for the benefit of any person, in any other degree of collateral consanguinity to the deceased, than as above described, or to or for the benefit of *any stranger in blood to the deceased* ; a duty at and after the rate of 10*l.* per cent. on the amount or value thereof - 10 0 0

And all gifts of annuities, or by way of annuity, or of any other partial benefit or interest, out of any such estate or effects as aforesaid, shall be deemed legacies within the intent and meaning of this schedule.

Exemptions.

Legacies, and residues, or shares of residue, of any such estate or effects as aforesaid, given or devolving to or for the benefit of the husband or wife of the deceased, or to or for the benefit of any of the royal family.

And all legacies which were exempted from duty by the 36 G. 3. c. 73. for exempting certain specific legacies, given to bodies corporate or other public bodies, from the payment of duty.

By s. 43. of 48 G. 3. c. 149. The commissioners are authorized

authorized to remit penalties incurred before passing this act, by non-payment of the duty on legacies, if the duty in arrear shall be paid on or before the 31st Jan. 1809.

By *f. 44.* In all cases not provided for by *f. 43.* where any receipt for any of the above matters shall be brought to the head office to be stamped after the expiration of three calendar months from the date thereof, it may be stamped on payment of the duty, together with the penalty incurred for not stamping the same in due time; and if the receipt have been signed out of *Great Britain*, and be brought to be stamped within 21 days after being received in *Great Britain*, and no penalty to be incurred.

To be under the stamp officers.

Commissioners of the land tax to ascertain the duty on property as it reduced into money when disputes arise.

The said duties to be under the management of the commissioners of the stamp duties. 35 G. 3. c. 52 *f. 3.*

And in case of specific legacies, where the residue of any personal estate shall consist of property not reduced into money, the person taking administration of such effects, or by whom the duty ought to be paid, may set a value thereon, and offer the duty accordingly; and may, at his own expence, require the stamp commissioners to appoint a person to set such value, and such commissioners may accept the duty set by such person with an appraisement, but if they shall not be satisfied with the value so set, they may appoint a person to appraise such effects, and to set the value thereon, and require the duty to be paid accordingly; but if the person who ought to pay such duty shall not be satisfied with such valuation, he may cause the same to be reviewed by the commissioners of the land tax of the district where such effects shall be, at their next meeting if fourteen days have elapsed before such meeting, and if not at the next succeeding meeting, of which appeal six days notice shall be given to the stamp commissioners; and the said commissioners of the land tax may appoint a person to appraise such effects, and to set a value thereon, and may hear and determine such appeal in like manner as appeals to them in other cases, and their judgment shall be final; and if the valuation made under the authority of such stamp commissioners shall not be appealed from within the time aforesaid, or shall be affirmed upon appeal, the duty shall be paid accordingly; and if any variation shall be made on such appeal, the duty shall be paid according to such variation; and if the duty assessed in manner aforesaid shall exceed the duty offered to and refused by such stamp officers, the expences shall be borne by the person liable to pay such duty. If any dispute shall arise between persons entitled to any such legacy, or residue, or taking administration as aforesaid, respecting the value thereof, or duty to be paid thereon, the duty shall be assessed by such stamp commissioners on reference to them by either party; and if the value of such property shall be in dispute,

dispute, such stamp commissioners shall cause an appraisement to be made thereof, at the expence of the person liable to pay the duty, in manner aforesaid; and if such person shall be dissatisfied with such valuation, the same shall be reviewed and finally determined by the said commissioners of the land tax, upon appeal to them within the time and in the manner aforesaid. And if the effects whereon such duty is payable shall be ten miles from *London*, such persons as shall be deputed by the said stamp commissioners shall act in their stead. *f. 22. 36 G. 3. c. 52.*

And if it shall appear to the said stamp commissioners, upon oath, to be administered by a justice, or master extraordinary in chancery, that less duty has been paid than ought to have been, by mistake, without intention of fraud, such mistake may be rectified, by such commissioners, who may accept the duty really due within three calendar months, if no suit hath been instituted, and on payment of 10 l. *per cent.* thereon by way of penalty. *f. 30.*

Every person paying or receiving money contrary to this act, who shall within twelve calendar months discover the other party offending, so as he be convicted thereof, shall be indemnified and discharged from all penalties against this act. *f. 31.*

And all powers of forming acts relating to the stamp duties, not hereby altered, shall be in force, in the execution of this act. *f. 42.*

Wherever any executor or administrator shall not have paid the said duties within time, the court of exchequer may, on application from the stamp office on satisfactory affidavit, grant a rule for such executor to shew cause why he should not deliver to the commissioners an account on oath of all legacies or of the personal property paid or payable by him, and why the duties thereon have not been or should not be forthwith paid, and may make such rule absolute where it appears proper. And registrars of ecclesiastical courts shall within a month of requisition deliver to the stamp office an account of wills and letters of administration in their custody with particulars relating thereto, and extracts from any wills deemed necessary by the commissioners, on payment of fees agreed on or allowed by the ecclesiastical court, on pain of 50 l. recoverable by information by the attorney general. *42 G. 3. c. 99. f. 2, 3.*

[N. B. The rules, &c. not connected with the office of a justice or commissioner of the land tax, further than as above set forth, are omitted.]

And by the 5 *W. c. 21.* the probate of the will or letters of administration of any common soldier or seaman, slain or dying in the service, shall be exempt from the stamp duties. *f. 6.*

Mistakes in paying duty may be rectified.

One offender discovering another indemnified.

Powers of former act to extend to this act.

Executors, &c. not having paid the duty in proper time.

Registrars to deliver account of wills, &c. to the stamp office.

Wills, &c. of soldiers or sailors exempted.

II. Duty on receipts for money.**Duty.**

By the 43 G. 3. c. 126. the duties imposed by 31 G. 3. c. 25. and 35 G. 3. c. 55. are repealed, and the following duties granted in lieu thereof; (*viz.*) For every piece of vellum or parchment, or sheet or piece of paper, upon which any receipt, discharge, or acquittance given for or upon the payment of money shall be written or printed:

					<i>s.</i>	<i>d.</i>
Amounting to	40 s. and under	10 l.	a stamp duty of	-	0	2
Ditto	-	10 l.	ditto	20 l.	-	0 4
Ditto	-	20 l.	ditto	50 l.	-	0 8
Ditto	-	50 l.	ditto	100 l.	-	1 0
Ditto	-	100 l.	ditto	200 l.	-	2 0
Ditto	-	200 l.	ditto	500 l.	-	3 0
Ditto	-	500 l. and upwards	ditto	-	-	5 0

By whom to be paid.

Which said duties shall be paid by the person by whom or on whose behalf such receipt shall be required; except such as shall be given upon payment of any salary, pension, debt, or other sum payable from his majesty, in which case the duty shall be paid by the person giving such receipt. And in default of payment, may be levied against the person by whom the same is hereby made payable, his executors, administrators, or assigns. *f. 2. 12. 43 G. 3. c. 126.*

To be under the stamp-office s.

The said duties to be under the management of the commissioners of the stamp duties. *31 G. 3. c. 25. f. 18. 35 G. 3. c. 55. f. 3. 43 G. 3. c. 126. f. 9.*

Exemptions from the duty.

Provided, that this act shall not extend to any receipt given for any legacy, or share, or part of any personal estate; or to any receipt on account of the army or navy; or for money paid into the bank of *England*, or the house of any banker; or to any receipt on the back of any bill of exchange, promissory or other note duly stamped; or on the back of any foreign bill of exchange; or to any release or acquittance by deed duly stamped; or to any receipt given upon any bank note; or to any letter acknowledging the safe arrival of any bills, notes, or other securities for money; or any receipt indorsed on or contained in the body of any deed, bond, mortgage, or other instrument duly stamped, acknowledging the payment or re-payment of any part of any principal sum or interest thereupon; or to any receipt for money payable for drawbacks or bounties upon the exportation of goods; or to any certificates of over entry of any duties of customs; or to any postage bills allowed to masters of ships for making a just report of their cargo at the custom house; or to any receipt given for the consideration of the purchase of any share in any public stock or fund, or in the stock of the *East India* company, or *South Sea* company, or for the dividends payable on such shares of the said stocks. *24 G. 3. c. 7. f. 1. f. 6.*

f. 6, 7. 31 G. 3. c. 25. f. 13, 14. 35 G. 3. c. 55. f. 2. 43 G. 3. c. 126. f. 12.

And every receipt, discharge, or acquittance, note, memorandum, or writing whatever, given upon the payment of money, which shall in any manner signify or denote any general acknowledgment of any debt, claim, account, or demand being paid or satisfied, or wherein the sum therein mentioned shall be acknowledged to be in full discharge of all such debts, claims, accounts, or demands, or intended so to be, whether signed or not, shall be deemed a receipt for 500 l. and upwards, and shall be liable to a stamp duty of 5 s. and shall not be available in law or equity as such acknowledgement, or be given in evidence, unless duly stamped as aforesaid. f. 3. 6.

What shall be deemed a receipt in full.

The full sum for which any receipt shall be given, and the true date thereof, shall be *bonâ fide* inserted therein; and all notes, memorandums or writings whatever, given upon payment of money amounting to 40 s. or upwards, whereby any sum shall be acknowledged to have been paid, settled, received, accounted for, balanced, discharged, released, or in any manner satisfied; or which shall in any manner signify such acknowledgement as aforesaid, whether the same shall or shall not be signed; shall be taken to be receipts within the true intent and meaning of this act, and shall be liable to the respective duties imposed thereon. 31 G. 3. c. 25. f. 15. 35 G. 3. c. 55. f. 5.

All memorandums, &c. given on payment of money, to be taken as receipts, and the full sum to be expressed therein.

Every note, memorandum, or writing whatever, given upon payment of money, which shall contain or express or in any manner signify or denote any acknowledgement of any part of any debt, claim, account, or demand being paid, settled, received, accounted for, balanced, discharged, released, or satisfied, whether signed or not, shall be deemed and taken to be a receipt, and shall be liable to a stamp duty in respect of the sum actually paid. 35 G. 3. c. 55. f. 7.

What shall be deemed receipts.

If any person shall write or sign any receipt liable to any stamp duty, without being first duly stamped as aforesaid; or with a stamp of a lower value than is herein directed: he shall forfeit 10 l. if the sum paid or expressed therein shall not amount to 100 l.; and 20 l. if the same amount to 100 l. or upwards. 31 G. 3. c. 27. f. 17. 35 G. 3. c. 55. f. 8.

Penalty on writing or signing receipts unstamped.

Every person who shall give any receipt or writing acknowledging the payment of money, in which a less sum shall be expressed than the sum actually paid or received, or who shall separate or divide the sum actually paid or received into divers sums, or shall write off any part of any debt, or demand, or be guilty of or concerned in any contrivance with intent to defraud his majesty, shall forfeit 50 l. 35 G. 3. c. 55. f. 9.

Inserting a less sum than actually paid, or dividing the same.

And

Payee to discharge the duty ;

And the persons or their agent, from whom any sum shall be due or payable, and who shall have paid such sum, may provide a stamp with the proper duty or of some higher rate of duty than required, and demand of the person entitled to such sum, or any agent to whom the same shall have been paid, a receipt for such sum and also the amount of the duty thereon as aforesaid ; and if such person refuse to give such receipt upon demand thereof, or to pay the amount thereof, every such person shall forfeit for each offence 10 l. 43 G. 3. c. 126. f. 5.

on pain of 10 l.

Stamps under former acts useable, if &c.

Stamps denoting the duties under former acts may be used, provided they be applied to receipts of the like amount as required by this act. f. 8.

To be stamped before written upon."

And all vellum, parchment, and paper liable to any stamp-duty as aforesaid, shall be stamped before the same be written or printed upon ; or may be brought to the said commissioners or their officers to be stamped within 14 days after such receipts shall be given or bear date, and shall be stamped on payment of 5 l. over and above the duty ; and if brought after 14 days within one calendar month, on payment of 10 l. over and above the duty. 31 G. 3. c. 25. f. 19, 20. 35 G. 3. c. 55. f. 10, 11.

Exception.

Penalties how to be recovered,

All penalties by this act incurred may be sued for in the courts at *Westminster* ; or any neighbouring justice may hear and determine any offence which subjects the offender to any pecuniary penalty ; who may, on complaint made within three calendar months, summon the party accused, and the witnesses, and examine into the matter of fact ; and on confession, or the oath of one witness, may give judgment therein, and levy such penalty by distress on the goods of the offender, which, if not redeemed within six days, may be sold ; and such penalty shall be distributed half to the king, and half to the informer ; and for want of sufficient distress, the offender shall be committed to prison for three calendar months, unless such penalty shall be sooner paid. 31 G. 3. c. 25. f. 24, 25. 35 G. 3. c. 55. f. 12, 13.

Appeal.

If any person shall find himself aggrieved by the judgment of such justice, he may, upon giving security to the amount of such penalty and costs, appeal to the next sessions which shall happen 14 days next after such conviction, on giving reasonable notice ; and in case such judgment be affirmed, they may award the person appealing such costs as to them shall seem meet. *Id.*

Mitigation.

Provided nevertheless, that such justice may, where he shall see cause, mitigate any such penalty, so as not to reduce the same to less than one moiety thereof over and above the costs. 31 G. 3. c. 25. f. 26. 35 G. 3. c. 55. f. 14.

Witnesses.

Witnesses not appearing, having been duly summoned, without

without reasonable cause to be allowed by such justice, or refusing to give evidence; shall forfeit 40s. to be recovered in like manner. 31 G. 3. c. 25. s. 27. 35 G. 3. c. 55. s. 15.

Persons counterfeiting or forging any stamp hereby directed to be made use of shall be guilty of felony without benefit of clergy. 31 G. 3. c. 25. s. 29. 35 G. 3. c. 55. s. 17. 43 G. 3. c. 126. s. 11.

Counterfeiting stamps.

All powers given by any former act relating to the stamp-duties shall extend to this act. 31 G. 3. c. 25. s. 30. 35 G. 3. c. 55. s. 18. 43 G. 3. c. 126. s. 12.

Powers of former acts to extend to this act.

Persons sued or prosecuted on account of any thing done in pursuance of this act may plead the general issue and give the special matter in evidence; and if a verdict be for the defendant, or the plaintiff be nonsuited, treble damages shall be awarded against such plaintiff. s. 15.

By the 44 G. 3. c. 98. the former stamp duties were repealed, and others imposed; by the 48 G. 3. c. 149. these last were repealed, and the following were imposed; viz.

Receipt or discharge given for or upon the payment of money	Duty.		
	£.	s.	d.
Amounting to 2l. and not amounting to 10l.	-	0	0 2
Amounting to 10l. and not amounting to 20l.	-	0	0 4
Amounting to 20l. and not amounting to 50l.	-	0	0 8
Amounting to 50l. and not amounting to 100l.	-	0	1 0
Amounting to 100l. and not amounting to 200l.	-	0	2 0
Amounting to 200l. and not amounting to 500l.	-	0	3 0
Amounting to 500l. or upwards	-	0	5 0
And where any sum of money, whatever shall be therein expressed, or acknowledged to be received in full of all demands,	-	0	5 0

And any note, memorandum, or writing whatsoever, given to any person for or upon the payment of money whereby any sum of money, debt, or demand, or any part of any debt or demand therein specified, and amounting to 2l. or upwards, shall be expressed or acknowledged to have been paid, settled, balanced, or otherwise discharged or satisfied, or which shall import or signify any such acknowledgment, and whether the same shall or shall not be signed with the name of any person, shall be deemed and taken to be a receipt for a sum of money of equal amount with the sum, debt, or demand so expressed or acknowledged to have been paid, settled, balanced, or otherwise discharged, or satisfied within the intent and meaning of this schedule and of the foregoing act, and shall be charged with a duty accordingly.

And any receipt or discharge, note, memorandum, or writing whatever, given to any person for or upon the payment

ment of money, which shall contain, import, or signify any general acknowledgment of any debt, account, claim, or demand, debts, accounts, claims, or demands, whereof the amount shall not be therein specified, having been paid, settled, balanced, or otherwise discharged or satisfied, or whereby any sum of money therein mentioned shall be acknowledged to be received in full, or in discharge or satisfaction of such debt, account, claim, or demand, debts, accounts, claims, or demands, and whether the same shall or shall not be signed with the name of any person, shall be deemed and taken to be a receipt for the sum of 500 l. or upwards within the intent and meaning of this schedule and of the foregoing act, and shall be charged with the duty of 5 s. accordingly.

And all receipts, discharges, and acknowledgements of the description aforesaid, which shall be given for or upon payments made by or with any bills of exchange, drafts, promissory notes, or other securities for money, shall be deemed and taken to be receipts given upon the payment of money within the intent and meaning of this schedule and of the foregoing act.

Exemptions from the preceding duties on receipts.

Receipts exempted from stamp duty by any act or acts of the present session, relating to the assessed taxes.

Receipts or discharges given by the treasurer of the navy for any money impressed to or received by him for the service of the navy.

Receipts or discharges given by any agent for money impressed to him on account of the pay of the army or ordnance.

Receipts or discharges given by any officer, seaman, marine, or soldier, or their representatives respectively, for or on account of any wages, pay, or pension due from the navy office, army pay office, or ordnance office.

Receipts or discharges given for the consideration money, for the purchase of any share in any of the government or parliamentary stocks or funds, or in the stocks and funds of the governor and company of the bank of *England*, or of the *East India* company, or *South Sea* company, and for any dividend paid on any share of the said stocks or funds respectively.

Receipts given for money deposited in the bank of *England*, or in the bank of *Scotland*, or royal bank of *Scotland*, or in the bank of the *British* linen company in *Scotland*, or in the hands of any banker or bankers, to be accounted for on demand provided the same be not expressed to be received of or by the hands of any other than the person or persons

to whom the same is to be accounted for; but if with interest, see *Promissory Note, ante*.

Receipts or discharges written upon promissory notes, bills of exchange, drafts, or orders for the payment of money duly stamped according to the laws in force at the date thereof, or upon bills of exchange drawn out of, but payable in *Great Britain*.

Receipts or discharges given upon bills or notes of the governor and company of the bank of *England*; letters by the general post acknowledging the safe arrival of any bills of exchange, promissory notes, or other securities for money.

Receipts or discharges indorsed or otherwise written upon, or contained in any bond, mortgage, or other security, in any conveyance, deed, or instrument whatever, duly stamped according to the laws in force at the date thereof, acknowledging the receipt of the consideration money therein expressed, or the receipt of any principal money, interest, or annuity thereby secured.

Receipts or discharges for money by deeds duly stamped according to the laws in force at the date thereof.

Receipts or discharges given for drawbacks or bounties upon the exportation of any goods or merchandize from *Great Britain*.

Receipts or discharges for the return of any duties of customs upon certificates of over entry.

Receipts or acknowledgements of payment indorsed upon any bills, orders, remittance bills, or remittance certificates, drawn by commissioned officers, masters, and surgeons in the navy, or by any commissioner or commissioners of the navy, under the authority of the act passed in the 35th year of his majesty's reign, for the more expeditious payment of the wages and pay of certain officers belonging to the navy.

Receipts or acknowledgments of payments indorsed upon any bills drawn pursuant to any former act or acts of parliament, by the commissioners of the navy, or by the commissioners for victualling the navy, or by the commissioners for managing the transport service, and taking care of sick and wounded seamen, upon and payable by the treasurer of the navy.

Recognizance.

[3 H. 7. c. 1.—1 & 2 P. & M. c. 13.—4 G. 3. c. 10.]

RECOGNIZANCE is a bond of record, testifying the recognizor to owe a certain sum of money to some other; and the acknowledging of the same is to remain of record; and none

What it is.

Recognizance.

none can take it but only a judge or officer of record. *Dalt. c. 186.*

In what cases it may be taken.

These recognizances, in some cases, the justices of the peace are enabled to take by the express words of certain statutes: but in other cases (as for the peace, and good behaviour, and the like) it is rather in congruity, and by reasonable intendment of law, than by any express authority given them, either by their commission, or by the statute law. *Crom. 125. Dalt. c. 168.*

But wheresoever any statute giveth them power to take a bond of any man, or to bind over any man to appear at the assizes or sessions, or to take sureties for any matter or cause, they may take a recognizance. Yea, wheresoever they have authority given them to cause a man to do a thing, there it seemeth they have in congruity power given them to bind the party by recognizance to do it; and if the party shall refuse to be bound, the justice may send him to gaol. *Dalt. c. 168.*

But he can take no recognizance but only of such matters as concern his office: and if he doth, it seemeth to be void. *Id.*

The form of it.

Every obligation and recognizance, taken by justices of the peace, must be made to *our lord the king*; on pain of imprisonment of any person that shall take it otherwise. *Id.*

It must also contain the name, place of abode, and trade or calling, both of principal and sureties, and the sums in which they are bound. *Barl. Recog.*

Condition.

And it is most commonly subject to a condition, which is either indorsed or underwritten, or contained within the body of it upon the performance of which the recognizance shall be void. *Id.*

Manner of taking it.

When the parties are to enter into recognizance, call them by their names thus; "You *A. B.* acknowledge to owe to our sovereign lord the king, the sum of ——— and you *C. D.* acknowledge to owe to our sovereign lord the king the sum of ———; to be levied of your respective goods and chattels, lands and tenements, for the use of our said lord the king, his heirs and successors, if default shall be made in the condition following; that is to say, if you the said *A. B.* shall make default in appearing," &c. But the parties need not to sign it. *Id.*

And it is usual for the justices to mark at the foot of the examination, *A. B.* in 40l. to appear, &c. And from such short note make out a record afterwards. *Id.*

Is a matter of record presently.

Yet the recognizance is a matter of record presently, so soon as it is taken and acknowledged, although it be not made up. *Dalt. c. 168.*

Whether it need be on parchment.

L. Coke (1 Inst. 260.) says, that a record is a memorial or remembrance

remembrance in rolls of parchment &c. From whence it seemeth that a recognizance ought to be ingrossed on parchment, perhaps for this reason, because parchment is more durable than paper: but since there is no law which prohibits it to be engrossed on paper, it seemeth that if it shall be on paper only, and not on parchment, it is good in law.

And when it is made up, if the justice shall only subscribe his name without his seal to it, this is well enough; and that may be in either of these sorts, *acknowledged before me, J. P.* or only to subscribe his name thus; *J. P. Dalt. c. 176.*

The justices shall certify their recognizances for keeping the peace to the next sessions, that the party may be called; and if he make default the default shall be recorded, and the recognizance, with the record of the default, shall be sent and certified into the chancery, king's bench, or exchequer. *3 H. 7. c. 1.*

But in cases of felony, the recognizances are to be certified to the general gaol delivery. *1 & 2 P. & M. c. 13.*

H. 7 An. Reg. v. Drummond. L. Drummond stood bound by recognizance to appear in the court of king's bench the first day of the term; and Sir Simon Harcourt, excusing his non-appearance by reason of sickness, moved that his recognizance might be discharged, the attorney-general having order, and being in court consenting thereto. But Holt Ch. J. said notwithstanding such consent, my L. Drummond not appearing in person, the court could not discharge the recognizance, but said, they could respite it till the next term; which was done accordingly. *11 Mod. 200.*

E. 12 An. Reg. v. Ridpath. Ridpath entered into a recognizance with sureties to appear the first day of the term to answer (generally), and in the mean time to be of the good behaviour, and not to depart without leave of the court. An information was preferred against him by the attorney general; who, for some defect in the pleading, entered a *noli prosequi*, and then exhibited a new information. The court was of opinion that the recognizance extended to all crimes whatsoever that he should be charged with; and that if it should have relation to any particular crime only, it must be mentioned in the recognizance, which in this case is only to answer generally; that the inconvenience is not so great as is pretended, the bail in this case being bound in a sum certain, and not to stand in the place of the principal, as in civil cases; and that the *noli prosequi* is neither a bar nor discharge. *10 Mod. 152. Fors. 358.*

H. 1 G. R. v. Tomb. If a recognizance be estreated in the exchequer, because not punctually complied with, yet if the party appear and take his trial next session, he may compound for a very small matter in the court of exchequer;

because the effect, though not the exact form of the recognizance, is complied with. The judges of oyer and terminer are the proper judges whether recognizances ought to be estreated or spared; and it is for the advantage of public justice that they should have such power, if upon the circumstances of the case they see fit. 10 *Mod.* 278.

And by parity of reason, it should seem that the justices of the peace in the quarter sessions should have the like power in respect of offences cognizable there.

In case they shall be estreated, where the offence is not attended with aggravating circumstances, it is enacted by the 4 G. 3. c. 10. as follows; Whereas many recognizances have been estreated into the exchequer against persons for not appearing as parties or witnesses in the courts of record at *Westminster*, or at the assizes, and general quarter sessions, or other courts of record, for not prosecuting indictments there, or otherwise not performing the conditions of such recognizances, many of which neglects of duty have happened by the inattention of ignorant people, some of whom are imprisoned, and others liable to be so, by the process constantly issued against them out of the court of exchequer, though no other prosecution be subsisting, but merely for such forfeitures of their recognizance, for which there are no easy means at present for poor persons especially to procure any discharge, for remedy thereof it shall be lawful for the barons of the exchequer, on affidavit and petition by and on the behalf of the person imprisoned or liable to be imprisoned, on the forfeiture of such recognizance, to discharge such person, by order without any *quietus* to be sued out for that purpose; for which order, no more shall be taken than one pound and one shilling. Provided, that no discharge shall be given on such petition, where any debt is due to the crown, other than by the recognizance so prayed to be discharged; nor in any cases of defrauding the revenue by contraband trade, or assaulting the officers of the customs or excise in the execution of their duty, or any person lawfully assisting them therein.

The conditions of recognizances in all the variety of cases are interspersed under their proper titles.

Recognizance with sureties.

Westmorland. BE it remembered that on the — day of — in the — year of the reign of our lord George the third, of the united kingdom of Great Britain and Ireland, king, defender of the faith, A. O. of — in the county aforesaid, yeoman, and A. S. of — in the county aforesaid, taylor, and B. S. of — in the county aforesaid

Recognizance.

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did, labourer, personally came before me, J. P. esquire, one of the justices of our said lord the king, assigned to keep the peace in the said county, and acknowledged themselves to owe to our said lord the king; that is to say, the said A. O. the sum of 20l. and the said A. S. and B. S. each the sum of 10l. separately, and of good and lawful money of Great Britain, to be made and levied of their goods and chattels, lands and tenements respectively, to the use of our said lord the king, his heirs and successors, if the said A. O. shall make default in the condition herein indorsed [or, hereunder written.]

Acknowledged before me,

J. P.

Recognizance without sureties.

Westmorland. **B**E it remembered, that on the ——— day of ——— in the ——— year of the reign of our lord George the third, of the united kingdom of Great Britain and Ireland, king, defender of the faith, A. O. of ——— in the said county, yeoman, personally came before me, J. P. esquire, one of the justices of our said lord the king, assigned to keep the peace in the said county, and acknowledged himself to owe to our said lord the king 10l. of good and lawful money of Great Britain, to be made and levied of his goods and chattels, lands and tenements, to the use of our said lord the king, his heirs and successors, if he the said A. O. shall fail in the condition here written, [or indorsed.]

J. P.

The condition of the above written [or, within written] recognizance is such, that if the above bound A. O. shall ——— then the said recognizance to be void, or else remain in its force.

Recusant. See Popery, and Public Worship.

Regrating. See Forestalling.

Rent. See Distress.

Rescue.

RESCOUS is an ancient French word, coming from *rescouter*, that is *recuperare*, to recover; and signifies a forcible setting at liberty against law a person arrested by the process or course of law. 1 Inst. 160. What a rescue is.

It seems that it is necessary that the rescuer should have knowledge that the person is under arrest for a criminal offence, if he be in the custody of a private person: but if he

be in the custody of an officer, there at his peril he is to take notice of it. 2 H. H. 606.

But it is said that to rescue a felon taken on a general warrant, to answer what shall be objected against him, no cause being expressed in the warrant, is not felony. 1 H. H. 578.

Nor unless a felony hath been really done. *Hale's Pl.* 116.

When it shall be tried.

Although a *prison breaker* may be arraigned for that offence, before he be arraigned of the crime for which he was imprisoned, yet he who *rescues* one imprisoned for felony cannot, according to the better opinion, be arraigned for such offence, as for a felony, till the principal offender be attainted; but he may be immediately proceeded against for a misprision, if the king pleases. 2 *Haw. c.* 21. *f.* 7.

Therefore, if the principal die before the attainder, he shall be fined and imprisoned. *Hale's Pl.* 116.

Also, if the principal be found not guilty, or guilty of a crime not capital, the rescuer ought to be discharged of felony: but he may be fined for the misdemeanor. 1 H. H. 598, 599.

Indictment.

An indictment of *rescous* must set forth the nature and cause of the imprisonment, and the special circumstances of the fact in question. 2 *Haw. c.* 21. *f.* 5.

On an indictment for an assault and rescue, it appeared that the sheriff's officers having apprehended a man by virtue of a writ against him, a mob collected and endeavoured by violence to rescue the prisoner. In the course of the scuffle, which was at ten o'clock at night, one of the bailiffs having been violently assaulted struck one of the assailants, a woman, and as it was for some time thought had killed her; whereupon and before her recovery was ascertained the constable was sent for and charged with the custody of the bailiff who had struck the woman. The bailiffs on the other hand gave the constable notice of their authority, and represented the violence which had been previously offered to them; notwithstanding which, he proceeded to take them into custody upon the charge of murder, and at first offered to take care also of the prisoner, who however was soon rescued by the surrounding mob; and the woman having recovered, the bailiffs were released by the constable the next morning. *Heath J.* was clearly of opinion that the constable and his assistant were guilty of the assault and rescue, and directed the jury accordingly; who however thought proper to acquit the defendants. *Exet. Sum. Aff.* 1 *East's P. C. c.* 5. *f.* 71.

Punishment.

A hindrance of a person to be arrested, that has committed felony, is a misdemeanor, but no felony: but if the party be arrested, and then rescued, if the arrest were for felony

the rescuer is a felon; if for treason, a traitor; if for trespass, a malefactor. *Hale's Pl.* 116. 2 *Haw. c.* 21.

There are also special penalties enacted for rescuing offenders against particular statutes, which belong not to this general title.

Although the felony for which a man is arrested be not within clergy, yet the rescuing him is within clergy. 1 *H. H.* 599. 607. Clergy.

Upon the return of a *rescous*, process of outlawry shall issue. 2 *Haw. c.* 27. *f.* 113. Outlawry.

Indictment for a rescue.

THE jurors for our lord the king upon their oath present, that on the — day of —, in the — year of the reign of —, J. P. esquire, one of the justices of our said lord the king, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, did make, direct, and deliver a warrant or precept in writing, to A. C. of —, in the said county, yeoman, constable of the town of — aforesaid in the county aforesaid, by which said warrant he the said A. C. the constable aforesaid, was commanded to take the body of A. O. late of —, yeoman, and bring and have him the said A. O. before the said J. P. to be examined by him the said J. P. concerning an assault said to have been committed by him the said A. O. upon A. I. of —, yeoman; which said A. C. the constable aforesaid, afterwards, that is to say, on the — day of —, in the year aforesaid, at — aforesaid, in the county aforesaid, by virtue of the said warrant, did take and arrest him the said A. O. for the cause aforesaid, and him the said A. O. in his custody, by virtue of the said warrant, then and there had: and that the said A. O. late of — aforesaid, in the county aforesaid, yeoman, and B. O. late of the same, yeoman, well knowing the said A. O. so to be arrested as aforesaid, afterwards, to wit, on the said — day of —, in the year aforesaid, at — aforesaid, in the county aforesaid, with force and arms, in and upon the said A. C. the constable aforesaid, then and there being in the peace of God and of our lord the king, and in the execution of his said office then and there being, did make an assault, and him the said A. C. then and there did beat, wound, and ill treat, and that the said B. O. him the said A. O. out of the custody of the said A. C. and against the will of the said A. C. then and there, with force and arms, unlawfully did rescue and put at large to go where he would; and that the said A. O. himself, out of the custody of the said A. C. and against the will of the said A. C. then and there, with force and arms, unlawfully did rescue, and escape at large, where he would

Restitution of stolen goods.

go; in contempt of our said lord the king and his laws, to the great damage of the said A. C. to the evil example of all others in the like case offending, and against the peace of our said lord the king, his crown and dignity.

Restitution of stolen goods.

[21 H. 8. c. 11.]

THERE are three means of restitution of goods for the party from whom they were stolen; 1. By appeal of robbery or larceny. 2. By the statute of the 21 H. 8. c. 11. And, 3. By the course of the common law. 1 H. H. 538.

Restitution upon
an appeal.

Upon an appeal of robbery or larceny. If the party were convicted thereupon, restitution of the goods contained in the appeal was to be made to the appellant; for it is one of the ends of that suit. 1 H. H. 538.

Hence it is, that if in an appeal of felony or robbery the appellant omit any of the goods stolen from him, they are forfeit and confiscate to the king. *Id.*

This appeal must be upon fresh suit; and though anciently the law was strict herein as to the time and manner of the pursuit and apprehending of the felon, yet the law is now more liberal. For if the felon be taken by any others, as by the sheriff, yet if the party robbed come within a year after and give notice of the felony, and enter his appeal, this is a fresh suit, if he used his diligence shortly after the felony to have taken him. 1 H. H. 540..

If a felon waive the goods stolen, without any pursuit after him, those goods are not in law waived nor forfeit to the king or lord of a franchise; but if he waive them upon a pursuit of him, then they are waived in law, and forfeit to the king or lord of the liberty. And this forfeiture is not like a stray, where though the lord may seize, yet the party who is the owner may retake them within the year and day; but here the true owner cannot seize his own goods, though upon fresh suit within the year and day. But yet this is not an absolute loss of the owner's goods, but rather an expedient settled by law, to drive the owner to convict the felon by prosecuting his appeal; and therefore if he make fresh suit, and prosecute his appeal, and the felon be thereupon convicted or attaint, and the fresh suit be inquired and found by verdict or inquest of office, he shall have restitution of the goods so waived. *Id.* 541.

Restitution by
the statute of
21 H. 8.

By the statute of the 21 H. 8. c. 11. Which statute introduced a new law for restitution; for before this statute there was

was no restitution upon an indictment, but only upon an appeal; which said statute enacteth as follows:

If any felon do rob or take away any man's money or goods, and therof be indicted and arraigned, and found guilty, or otherwise attainted, by reason of evidence given by the party robbed, or owner of the money or goods, or by any other by their procurement; then the party robbed, or owner of the goods, shall be restored to such his money or goods; and as well the justices of gaol delivery, as other justices before whom the felon shall be found guilty, or otherwise attainted, may award a writ of restitution, in like manner as if the felon were attainted on appeal.

Or otherwise attainted] If the owner preter a bill of indictment, which is found, and the felon flies, and is outlawed, the owner shall have restitution; for he gave evidence upon the indictment, which, though it be not a conviction, is the ground of the outlawry, which is an attainder. 1 H. H. 545.

The party robbed or owner] Therefore if the servant be robbed of the master's money, or his servant, by his procurement, give evidence and convict the felon, the master shall have a writ of restitution, if it appear upon the indictment and evidence that it was the master's money; for the statute gives restitution to the party robbed, or owner. 1 H. H. 542.

Or owner.] If the testator be robbed, and the thief be convicted upon the procurement of the executor, such executor shall have restitution; for this being a beneficial law ought to be construed beneficially, so as to extend to executors and administrators. 3 Inst. 242.

Shall be restored] If goods be stolen, and not waived in sight, nor seized by the king's officers or lord of the manor, nor sold in open market, the owner may take them again without any writ of restitution, or may bring his action for them; and this, although he doth not prosecute the offender. 2 *Huw. c. 23. f. 49. Kely. 48.*

And by the 31 *El. c. 12.* Where horses are stolen, and sold in open market, and the owner claims them again within six months, and pays the buyer as much as they cost him, he shall have them again without prosecution.

But otherwise if the goods be waived, by the felon in his sight, or in case they be not waived, yet if they be seized by the king's officers, or lord of the manor, as suspecting them to be stolen; there the party shall not have restitution, unless the felon be convicted at his prosecution. 2 *Huw. c. 23. f. 49. Kely. 48.*

And in such case, he shall have no more than what is mentioned in the indictment, though other goods were stolen at the same time; and the reason is, because by such omission the offender might have escaped. *Kely. 49. 1 H. H. 545.*

Restitution of stolen goods.

To such his money or goods] A man stole cattle, and sold them in open market; the sheriff seized the thief and the money, and he was convicted and hanged at the prosecution of the owner of the cattle, and he had restitution of the money; for though the statute gives power to the justices to award restitution of the *money or goods stolen*, and though the money in this case was not stolen, yet because it did arise by stealing, it shall be within the equity, though not in the very words of the statute. *Noy*, 128.

But it hath been a great question, if goods be stolen and by the thief sold in the market overt, whether the thief being convicted upon the evidence of the party robbed, he shall have restitution upon this statute of the thing sold or no, the buyer not being privy to the felony: but *L. Hale* argues strongly, that he shall have restitution notwithstanding the sale in market overt of the goods stolen. 1. Because this act was made to encourage persons robbed to pursue malefactors, and therefore they have an assurance of restitution; and it would be small encouragement if a thief by a sale in a market overt, which is every day almost in every shop in *London*, should elude it. 2. Because the man that is robbed is robbed against his will, and cannot help it; but the buyer of stolen goods may chuse whether he will buy, or if he buy, may yet refuse to buy unless well secured of the property of the goods, or knowing the owner. 1 *H. H.* 542, 3, 4. 2 *Haw. c.* 23. *f.* 55. *Kely.* 48.

But the owner of goods stolen, prosecuting the felon to conviction, cannot recover their value in trover from a person who purchased them in market overt and sold them again before conviction; notwithstanding that the owner gave him notice of the robbery while they were in his possession. Indeed, if he could maintain such action, he might recover with equal propriety against any one of the various persons through whose hands the goods might have passed in the intermediate time between the felony and conviction; during which period the property remains *in dubio*, liable to be defeated by the attainder. The plaintiff, however, has a right to restitution, and perhaps would be entitled to recover damages in trover against any person who was fixed with the goods after conviction, and refused to deliver them; for then the goods would be converted to the prejudice of the owner. *Horwood v. Smith.* 2 *T. R.* 750.

In like manner as if the felon were attainted on appeal] And yet upon this statute, if the offender be convicted upon the evidence of the party robbed, or owner, he shall have restitution, though there were no fresh suit, or any inquiry by inquest touching the same; and this is constant practice, though in case of an appeal it be otherwise. 1 *H. H.* 545.

Yet if it shall appear to the court that the party hath been guilty of a gross neglect in prosecuting, it seemeth that in such case he shall not be intitled to restitution. 2 *Huw. c.* 23. f. 56.

And where goods have been obtained from another by mere fraud, the court have no power to award restitution on conviction of the offender, as in cases of felony. 2 *Eust's P. C. c.* 18. f. 14. 5 *T. R.* 175. 2 *Leach*, 666.

By course of the common law] If the owner take his goods again of the offender, to the intent to favour him, or maintain him, this is unlawful, and punishable by fine and imprisonment; but if he take them again without any such intent, it is no offence. 1 *H. H.* 546.

Restitution by the common law.

But after the felon is convicted, it can be no colour of crime to take his goods again, where he finds them; because he hath pursued the law upon him, and may have his writ of restitution, if he pleases. *Id.*

Riot, rout, and unlawful assembly.

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[2 Ed. 3. c. 3.—34 Ed. 3. c. 1.—1 G. 2. c. 5.]

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[13 H. 4. c. 7. f. 1, 2, 3, 4.—2 H. 5. c. 8. f. 2.—19 H. 7. c. 13.]

VI. *How by process out of chancery* - - - - - 147

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VII. *Seditious meetings and unlawful assemblies*

by 36 G. 3. c. 8. and 39 G. 3. c. 79 148

[41 G. 3. c. 80. f. 1.]

I. *What is a riot, rout, or unlawful assembly.*

WHEN three persons or more shall assemble themselves together, with an intent mutually to assist one another against any who shall oppose them, in the execution of some enterprize of a private nature, with force or violence, against the peace, or to the manifest terror of the people, whether the act intended were of itself lawful or unlawful; if they only meet to such a purpose

What is an unlawful assembly

pose or intent, although they shall after depart of their own accord, without doing any thing, this is an *unlawful assembly*.

What a rout.

If after their first meeting they shall move forward towards the execution of any such act, whether they put their intended purpose in execution or not, this according to the general opinion, is a *rout* :

What a riot.

And if they execute such a thing in deed, then it is a *riot*.
(A) 1 *Haw. c. 65. f. 1. Dalt. c. 136.*

Three persons or more] And therefore if the jury do acquit all but two, and find them guilty, the verdict is void, unless they be indicted *together with other rioters unknown*, because it finds them guilty of an offence, whereof it is impossible that they should be guilty ; for there can be no riot, where there are no more persons than two. 2 *Haw. c. 47. f. 8.*

H. 2 G. 3. R. v. Scott and Hans. Six persons were indicted ; whereof two died before trial, two were acquitted, and two convicted. It was moved in arrest of judgment, for that two only could not be found guilty of a riot, unless they were indicted *together with other persons unknown* ; which was not the case here ; for it doth not appear that any others were guilty besides these two ; here is no finding as to the two dead persons.—By *L. Mansfield* : Six were indicted. Two of them are acquitted. Two are dead untried. The jury have found the other two guilty of a riot ; Consequently, it must have been with one or both of those who have not been tried ; as it could not otherwise have been a riot.
3 *Burr. 1262.*

Women are punishable as rioters ; but infants, under the age of discretion are not persons within the aforesaid description, punishable as rioters. 1 *Haw. c. 65. f. 14.*

Note ; in 1 *Haw. 156, 157, 158* (folio edition,) the words *more than three persons* are three times over inserted instead of *three persons or more* ; which is only remarked as an instance, that in a variety of matter, it is impossible for the mind of man to be always equally attentive.

Assemble themselves together] It seems agreed that if a number of persons being met together at a fair, or market, or church ale, or on any other lawful and innocent occasion, happen on a sudden quarrel to fall together by the ears, they are not guilty of a riot, but of a sudden affray only, of which none are guilty but those who actually engage in it ; because the design of their meeting was innocent and lawful, and the subsequent breach of the peace happened unexpectedly, without any previous intention concerning it. Yet it is said, that if persons innocently assembled together do afterwards upon a dispute happening to arise among them form themselves into parties, with promises of mutual assistance, and then make an affray, they are guilty of a riot ; because upon their
con-

confederating together with an intention to break the peace, they may as properly be said to be assembled together for that purpose from the time of such confederacy, as if their first coming together had been on such a design. 1 *Haw. c. 65. f. 3.*

In the execution of some enterprize of a private nature] It also seems agreed that the injury or grievance complained of and intended to be revenged or remedied by such an assembly must relate to some private quarrel only; as the inclosing of lands, in which the inhabitants of a town claim a right of common, or gaining the possession of tenements the title whereof is in dispute, or such like matters relating to the interest or disputes of particular persons, and no way concerning the public; for wherever the intention of such an assembly is to redress public grievances, as to pull down inclosures in general, or reform religion, and the like, it is high treason. *Id. f. 6.*

Against the peace, or to the terror of the people] It seems to be clearly agreed that in every riot there must be some such circumstances, either of actual force or violence, or at least of an apparent tendency thereto, as are naturally apt to strike a terror into the people, as the shew of armour, threatening speeches, or turbulent gestures; for every such offence must be laid to be done *to the terror of the people*: And from hence it clearly follows that assemblies at wakes, or other festival times, or meetings for exercise of common sports or diversions, as bull baiting, wrestling, and such like, are not riotous. *Id. f. 5.*

From the same ground also it seems to follow that it is possible for three persons or more to assemble together with an intention to execute a wrongful act, and also actually to perform their intended enterprize, without being rioters; as if a man assemble a meet company, to carry away a piece of timber or other thing, whereto he pretends a right, that cannot be carried without a great number, if the number be not more than are needful for such purpose, although another man hath better right to the thing so carried away, and that this act be wrong and unlawful, yet it is of itself no riot, except there be withal threatening words used, or other disturbance of the peace. *Id. Lamb. 178. Dalt. c. 137.*

Much more may any person, in a peaceable manner, assemble a meet company to do any lawful thing, or to remove or cast down any common nuisance: Thus every private man, to whose house or land any nuisance shall be erected made or done, may in peaceable manner assemble a meet company, with necessary tools, and may remove, pull, or cast down such nuisance, and that before any prejudice received thereby; and for that purpose, if need be, may also enter into another

man's ground. Thus a man erected a wear across a common river, where people have a common passage with their boats, and divers did assemble with spades, crows of iron, and other things necessary to remove the said wear, and make a trench in his land, that did erect the wear, to turn the water, so as they might the better take up the said wear, and they did remove the same nuisance; this was holden neither any forcible entry, nor yet any riot. *Dalt. c. 137.*

But in the cases aforesaid, if in removing any such nuisance the persons so assembled shall use any threatening words (as to say, they will do it though they die for it, or such like words), or shall use any other behaviour, in apparent disturbance of the peace, then it seemeth to be a riot, and therefore where there is cause to remove any such nuisance, or to do any like act, it is the safest not to assemble any multitude of people, but only to send one or two persons, or if a greater number, yet no more than are needful, and only with meet tools, to remove pull or cast down the same, and that such persons tend their business only, without disturbance of the peace, or threatening speeches. *Id.*

Whether the act intended were of itself lawful or unlawful] It hath been generally holden that it is no way material, whether the act intended to be done by such an assembly be of itself lawful or unlawful, from whence it follows, that if three or more persons assist a man to make a forcible entry into lands, to which one of them has a good right of entry, or if the like number in a violent and tumultuous manner join together in removing a nuisance, or other thing which may lawfully be done in a peaceable manner, they are as properly rioters as if the act intended to be done by them were never so unlawful. *1 Haw. c. 65. f. 7.*

II. *How the same may be restrained by a private person.*

By the common law, any private person may lawfully endeavour to suppress a riot, by staying those whom he shall see engaged therein from executing their purpose, and also by stopping others whom he shall see coming to join them. However it seems extremely hazardous for private persons to proceed to these extremities; and such violent methods seem only proper against such riots as favour of rebellion. *1 Haw. c. 65. f. 11.*

In the riots of 1780, however, this matter was much misunderstood, and a general persuasion prevailed that no indifferent person could interpose without the authority of a magistrate; in consequence of which much mischief was done, which might otherwise have been prevented. So there is a
great

great difference between the right of a private person in cases of intended felony and of breach of the peace: it is lawful for a private person to do any thing to prevent the perpetration of a felony. 2 *Bos. & Pull.* 264.

III. *How by a constable or other peace officer.*

By the common law, the sheriff, constable, and other peace officers, may and ought to do all that in them lies, towards the suppressing of a riot, and may command all other persons to assist therein. 1 *Haw. c.* 65. *f.* 11.

IV. *How by one justice.*

By the 34 Ed. 3. c. 1. *The justices of the peace shall have power to restrain rioters, and to arrest and chastise them according to their offence; and cause them to be imprisoned and duly punished according to the law and custom of the realm, and according to that which to them shall seem best to do, by their discretions and good advisement.*

And this statute hath been liberally construed for the advancement of justice; for it hath been resolved, that if a justice find persons riotously assembled, he alone, without staying for his companions, hath not only power to arrest the offenders and bind them to their good behaviour, or imprison them if they do not offer good bail; but that he may also authorize others to arrest them by a bare verbal command, without other warrant; and that by force thereof, the person so commanded may pursue and arrest the offenders in his absence as well as presence. Also it is said that after a riot is over, any one justice may send his warrant to arrest any person who was concerned in it, and also that he may send him to gaol, till he shall find sureties for his good behaviour. 1 *Haw. c.* 65. *f.* 16.

But it seems to be agreed that no one justice hath any power by force of this statute either to record a riot upon his own view, or to take an inquisition thereof after it is over. Also if one justice, proceeding upon this statute, shall arrest an innocent person as a rioter, it seemeth that he is liable to an action of trespass, and that the party arrested may justify the rescuing himself, because no single justice is by this statute made a judge of the said offence. But if a riot shall be committed by persons armed in an unusual manner, contrary to the statute of *Northampton*, 2 Ed. 3. c. 3. and any one justice acting *ex officio*, in pursuance of the statute, seize the armour, and imprison the offender, and make a record of the whole matter, such a record cannot be traversed, because it is made by one acting in a judicial capacity. And for the same reason, if a justice proceeding on the statute of

of the 15 R. 2. against forcible entries and detainers shall upon his own view record a riot, which shall be commuted in the making of any such forcible entry or detainer, a riot so recorded cannot be traversed. Also if a justice acting as a judge by any statute whatsoever empowering him so to do make a record upon his view of a riot committed in his presence, such record shall not be traversed; for the law gives such uncontrollable credit to all matters of record made by any judge of record as such, that it will never admit of an averment against the truth thereof. 1 *Hew. c. 65. s. 17.*

But if the rioters are above the number of twelve, the offence is greatly enhanced, and the power of one justice very much enlarged, by the act commonly called the riot act, 1 *G. 4. c. 5.* which is required to be read at every quarter sessions and leet; By which it is enacted That every justice, sheriff, under sheriff, and mayor, shall, on notice or knowledge of any unlawful riotous and tumultuous assembly of persons to the number of twelve or more, together with such help as he shall command, resort to the place. *s. 2, 3.*

Whereupon he shall, amongst the rioters, or as near to them as he can safely come, with a loud voice command or cause to be commanded silence to be while proclamation is making; and after that, shall openly and with a loud voice make or cause to be made proclamation in these words, or like in effect;

Our sovereign lord the king chargeth and commandeth all persons being assembled immediately to disperse themselves, and peaceably to depart to their habitations, or to their lawful business, upon the pains contained in the act made in the first year of king George, for preventing tumults and riotous assemblies; God save the king. s. 2.

And if any person shall with force and arms wilfully oppose, hinder, or hurt any person that shall begin or go to make the proclamation, whereby the same shall not be made, he shall be guilty of felony without benefit of clergy.

s. 5.

If any twelve or more of them shall continue together by the space of one hour after such proclamation made, or after such hindrance (having knowledge thereof), they shall be guilty of felony without benefit of clergy. *s. 1. 5.*

And every justice, sheriff, under sheriff, mayor, high and petty constable, and other peace officer, and every other person of age and ability commanded by them to assist, shall apprehend the offenders, and carry them before a justice, to be proceeded against according to law. And if any rioters be killed or hurt by any of the said persons in dispersing or apprehending

prehending them, by reason of their assistance, such persons shall be indemnified. *f. 3.*

Also, if any rioters (although under the number of twelve, and whether any proclamation be made or not) shall unlawfully and with force demolish or pull down or begin to demolish or pull down any church or chapel, or any building for religious worship, certified and registered according to the act of toleration, or any dwelling house, barn, stable, or other outhouse, they shall be guilty of felony without benefit of clergy. *f. 4.* And any one justice may proceed against them as against other felons.

And the hundred, city, or town, shall answer the damages thereof, as in cases of robbery. *f. 6.*

Under the number of twelve] *M. 33 G. 3.* In the case of *Pritch v. Waldron* and another, it was determined that to support an action against the hundred for damages on the above act, for riotously demolishing a house, it is not necessary to prove that twelve rioters were assembled at the time. *5 T. R. 14.*

Prosecutions on this act to be within twelve months after the offence. *f. 8.*

V. How by two justices.

If any riot, assembly, or rout of people, against the law be made, the justices, three or two of them at the least, and the sheriff, or under sheriff, shall come with the power of the county, if need be. 13 H. 4. c. 7. s. 1.

And the king's liege people being sufficient to travel, shall be assistants to them, upon reasonable warning, to ride with them in aid to resist such riots, routs, and assemblies, on pain of imprisonment, and to make fine and ransom to the king. *2 H. 5. c. 8. s. 2.*

If any riot, assembly, or rout of people, against the law, be made] It is said that the justices are not only empowered hereby to raise the power of the county to assist them in suppressing a riot which shall happen within their own view or hearing, but also that they may safely do it upon a credible information given them of a notorious riot happening at a distance, whether there were any such riot in truth or not; for it may be dangerous for them to stay till they can get certain information of the fact: but they seem to be punishable for alarming the country in this manner, without such probable ground for their proceeding, as would induce a reasonable man to think it necessary and convenient. *1 Haw. c. 65. s. 22.*

Assembly] It seems clear from hence that if the justices in going towards the place where they have heard that there is a riot shall meet persons coming from thence riotously arrayed,

rayed, they may arrest them for being assembled together in such an unlawful manner, and also make a record thereof; for the statute extends to all other unlawful assemblies whatsoever as well as to riots. *Id.*

The king's liege people] Except women, clergymen, persons decrepit, and infants under the age of fifteen. *Id.*

To resist such riots] And also to arrest the rioters, and conduct them to prison. *Id.*

And shall arrest them 13 H. 4. c. 7. s. 1.

And if they shall escape, they may take them on a fresh pursuit; but they cannot at another time award any process against them on the record, but ought to send the record into the king's bench, that process may issue thereon from thence: yet there seems to be no doubt but that they may arrest them for their trespasss on the aforesaid statute of the 34 Ed. 3. in order to compel them to find sureties for their good behaviour. 1 Haw. c. 65. s. 24.

And the same justices and sheriff, or under sheriff, shall have power to record (B) that which they shall find so done in their presence against the law; by which record the offenders shall be convicted in the same manner and form as is contained in the statute of forcible entries (C). 13 H. 4. c. 7. s. 1.

Shall have power to record] And this they may do, whether the offenders be in custody at the same time or have escaped. 1 Haw. *Id.*

Shall be convicted] And it seemeth to be certain that the record of a riot, expressly mentioned to have happened within the view of the justices by whom it is recorded, is a conviction of so great authority, that it can no way be traversed, however little ground of truth there might be to affirm that any riot at all was committed, or however innocent the parties may be of the fact recorded against them. *Id.* s. 25.

However it seemeth clear that if in such a record of a riot it be contained that the party was guilty therein of a felony, or maim, or rescous, the party shall be concluded thereby as to the riot only, and not as to any of the other matters; because the justices have by this statute a judicial authority over no other offences except riots, routs, and unlawful assemblies. *Id.* s. 26.

And inasmuch as such a final record is a conviction of the parties, as to all such matters as are properly contained in it, it ought to be certain both as to the time and place of the offence, and the number of persons concerned therein, and the several kinds of weapons made use of by them, and all other circumstances of the fact; for since the parties are excluded from denying the truth of such record, and have no other remedy to defend themselves against it, but only by advantage of the insufficiency of what is contained in it, they

they may justly demand the benefit of excepting to it, if it do not expressly shew both that they are guilty within the meaning of the statute, and also how far they are guilty, and that the justices have pursued the power so given them by the said statute: from the same ground it seems also to follow that such a record may be excepted against, if it do not appear to have been made by the sheriff or under-sheriff in concurrence with the justices. *Id.*

And this record ought to remain with one of the justices, and shall not be left amongst the records of the sessions, it being made out of sessions, and not appointed to be certified thither. *Dalt. c. 82.*

In the same manner and form as is contained in the statute of furable entries] That is, the statute of the 15 R. 2. c. 2. And thereupon it is said that the offenders being under the arrest of the justices, and also convicted by a record of their offence, ought immediately to be committed to gaol by the same justices till they shall make fine and ransom to the king; which can be assessed by no other justices of the peace, except those by whom the record of the offence was made. *1 Haw. c. 65. f. 28.*

And this fine, Mr. Dalton says, the justices shall cause to be estreated into the exchequer, that so it may be levied to the king's use; and then they are to deliver the offenders again. *Dalt. c. 82.*

But Mr. Hawkins says, that it hath been questioned whether the justices can safely dismiss the offenders upon their paying such a fine as shall be imposed upon them, without some judgment for their imprisonment as well as fine; because it is enacted by the 2 H. 8. c. 8. that such rioters attainted of great and heinous riots shall have one whole year's imprisonment at the least, without being let out of prison by bail or mainprize; and that the rioters attainted of petty riots shall have imprisonment as best shall seem to the king or to his council. *1 Haw. c. 65. f. 35.*

And if the offenders be departed before the coming of the said justices and sheriff or under sheriff, the same justices, three or two of them, shall diligently enquire (D.) within a month after such riot, assembly, or rout of people so made, and thereof shall hear and determine according to the law of the land. 13 H. 4. c. 7. f. 1.

The same justices] It is generally said that any justices of the county may take such an enquiry, whether they dwell near the place where the riot happened, or at a distance, or whether they went to view the riot or not; for the statute ought to be construed as largely as the words will bear in favour of the justices power in the suppressing of such riots; and therefore those words in the statute *that the same justices shall*

Shall enquire ought to be thus expounded, that the said justices who were before empowered to raise the posse shall enquire, and that is, any justices in the county. 1 *Haw. c. 65. f. 32.*

Shall diligently enquire] This is, by a jury: In order which, it is enacted by the 19 *H. 7. c. 13.* that the sheriff, or their precept directed to him, shall on pain of 20 l. return 12 persons, whereof every of them shall have lands and tenements within the shire, to the yearly value of 20 s. of charter land of freehold, or 26 s. 8 d. of copyhold, or of both, over and above all charges; and he shall return upon every juror 12 issues, at the first 20 s. and at the second 40 s.

Note; *Charter land* had its name from a particular form in the charter or deed, which ever since the reign of *H. 8.* has been disused. 1 *Inst. 6.*

Within a month] That is, if they do not make enquiry within a month, they are punishable for the neglect; yet they may enquire after the month; for the lapse of a month does not determine their authority, but only subjects them to penalty. 2 *Salk. 593.*

Shall hear and determine according to the law of the land] And therefore they may award process under their own test against those who shall be indicted before them of any of the offences above-mentioned, according to the form of this statute; and also may award the like process for the trial of a traverse of such an inquisition; and do all other things in relation thereunto, which are of course incident to all courts of record. 1 *Haw. c. 65. f. 34.*

And the riot being so found by inquisition, the justices must make a record thereof in writing of such their enquiry or presentment found before them; which record also is to remain with one of the justices. *Dult. c. 82.*

And if the truth cannot be found in the manner as is aforesaid then within a month then next following, the justices, three or two of them, and the sheriff or under sheriff, shall certify before the king and his council all the deed and circumstances thereof, which certificate shall be of the like force as the presentment of 12 men; upon which certificate the offender shall be put to answer, and shall be punished according to the discretion of the king and his council. 13 *H. 4. c. 7. l. 2.*

And if they do traverse the matter so certified, the certificate and traverse shall be sent into the king's bench to be tried. *Id. l. 3.*

And if the offence be not found, by reason of any maintenance or embracery of the jurors, then the same justices and sheriff or under sheriff shall in the same certificate certify the names of the maintainers and embracers, with their misdemeanors. 19 *H. 7. c. 13.*

Shall certify] And it seemeth certain that such certificate being

being in nature of an indictment at the common law ought to comprehend the certainty of time, place, and persons, and other material circumstances, both of the riot and maintenance. 1 *Haw. c. 65. f. 13.*

Before the king and his council] It seems clear, by the council being here distinguished both from the chancery and king's bench, that the certificate ought to be made to the privy council board, and not to either of those courts, which in some statutes relating to judicial proceedings are taken for the king's council. *Id. f. 41.*

And the said justices and other officers shall execute their offices aforesaid at the king's costs in going and continuing in doing their said offices, by payment thereof to be made by the sheriff, by indentures betwixt the said sheriff and justices and other officers aforesaid whereof the sheriff upon his account in the exchequer shall have due allowance. 2 H. 5. c. 8.

In order to the defraying of which, the said statute directs the fines of the offenders to be enlarged, and thereout the sheriff may pay the charges of the said justices; and of the jury, that is, for their diet; and the sheriff's fees, and the like. *Dalt. c. 82.*

And the justices dwelling nighest in the county, where such riot, assembly, or rout shall be, together with the sheriff or under sheriff, shall do execution of the said statute of the 13 H. 4. every one upon pain of 100 l. to the king. f. 4.

The justices dwelling nighest] Although these only are liable to this penalty, yet if any others on notice shall neglect to supply their default, they are fineable at discretion. 1 *Haw. c. 65. f. 48.*

But if any justices, who do not dwell nearest to the place, do actually execute the statute, they excuse all the rest. 1 *Haw. c. 65. f. 46.*

Dwelling nighest in the county] Therefore if they dwell nighest, but in another county, they are not in danger of this penalty. *Id. f. 45.*

Shall do execution of the said statute] That is, in the whole, and not in part only; as by recording a riot, and committing the parties. *Id. f. 50.*

VI. How by process out of chancery.

By the 2 H. 5. c. 8. *If default be found in the two justices, sheriff, or under sheriff, then, at the instance of the party grieved, a commission shall be issued under the great seal, to enquire as well of the truth of the case for the complainant, as of such default.*

And by the 2 H. 5. c. 9. and 8 H. 6. c. 14. *Risters shall be taken by writ and proclamation out of chancery, on suggestion of two justices and the sheriff, of the common fame of such riot.*

VII. *Seditious meetings and unlawful assemblies.*

Certain societies
suppressed.

By 39 G. 3. c. 79. after reciting that a traitorous conspiracy had long been carried on in conjunction with the persons exercising the powers of government in *France*, to overturn the laws and government in *Great Britain* and *Ireland*, it is enacted that all societies calling themselves *United Englishmen*, *United Scotchmen*, *United Irishmen*, and *United Britons*, and the society commonly called the *London Corresponding Society*, and all other *Corresponding Societies* of any other city, town, or place, shall be suppressed and prohibited. *s. 1.*

What societies
deemed unlaw-
ful.

And all the said societies, and every other society, the members whereof shall according to the rules thereof or to any agreement for that purpose be required or admitted to take any oath or engagement deemed unlawful within the meaning of 37 G. 3. *for more effectually preventing the administering or taking of unlawful oaths (a)*, or taking any oath not authorised by law; and every society, the members whereof shall take, subscribe, or assent to any test or declaration not required by law, or not authorised in manner herein-after mentioned, and every society of which the names of the members, or of any of them, shall be kept secret from the society at large; or which shall have any committee or select body so chosen or appointed, that the members constituting the same shall not be known by the society at large to be such members, or which shall have any president, treasurer, secretary, delegate, or other officer so appointed, that such appointment shall not be known to the society at large, or where the names of all the members shall not be entered in a book to be kept for that purpose, and to be open to the inspection of all the members of such society; and every society composed of different divisions, or different parts acting separately from each other, or of which any part shall have a separate and distinct president, secretary, treasurer, delegate, or other officer appointed by or for such part, or to act as an officer for such part, shall be deemed unlawful combinations and confederacies; and every person who shall become a member of any such society, or being a member, shall, after the passing of this act (b), act as a member, or directly or indirectly maintain correspondence or intercourse with any such society, or any division, committee, officer, or member thereof, or who shall, by contribution of money, or otherwise, aid, or support such society, or any member or officer thereof, shall be deemed guilty of an unlawful combination and confederacy. *s. 2.*

(a) See this act, title *Oaths*.

(b) 12 July 1799.

Provided

Provided nevertheless, that nothing herein shall extend to any declaration taken, subscribed, or assented to, by the members of any society, in case the form thereof shall have been first approved and subscribed by two justices of the county or place where such society shall ordinarily assemble, and shall have been registered with the clerk of the peace, or his deputy (for which shall be paid 1 s. and no more), but such approbation of the justices shall remain valid no longer than until the next general sessions for such county or place, unless the same shall be confirmed at such sessions; and if not then confirmed, the provisions of this act shall from thenceforth extend to such declarations, and to all persons subscribing the same, so far as they may relate to all acts which may be done by them or any of them, subsequent to the holding of such sessions. *f. 3.*

Not to extend to declarations approved by 2 justices, and confirmed at the sessions,

Provided that no person who, before the passing of this act, shall have been a member of any such society, shall be liable to any penalty, in case he shall not in any manner act as a member after the passing of this act. *f. 4.*

Not to persons not acting after the passing of this act.

But nothing herein shall extend to *Lodges of Free Masons* which, before the passing of this act, have been usually holden under that denomination, and in conformity to the rules prevailing amongst such societies; provided that two members of each lodge certify upon oath before a justice that such society or lodge has, before the passing of this act, been usually held under the denomination of a *Lodge of Free Masons*, and in conformity to the rules prevailing amongst such societies; which certificate, duly attested by the magistrate before whom sworn, and subscribed by the person so certifying, shall, within two calendar months after the passing of this act, be deposited with the clerk of the peace for the county or place where such lodge hath been usually held. Provided also, that this exemption shall not extend to any such lodge, unless the name or denomination thereof, and the usual places and times of its meetings, and the names and descriptions of the members thereof be registered with such clerk of the peace within two months after the passing of this act, and also on or before the 25th *March* in every succeeding year. *f. 5, 6.*

Not to Free Masons.

And the clerk of the peace or person acting in his behalf shall receive such certificate, and make such registry as aforesaid, and enroll the same among the records of such county or place, and shall lay the same once in every year before the general sessions, who may, if they so think fit, upon complaint upon oath of one credible person, that the continuance of the meetings of such lodge is likely to be injurious to the public peace, direct that such meeting shall be discontinued: and every such meeting held notwithstanding such discontinu-

Certificate and registry to be laid before the sessions yearly, who may discontinue any lodge.

ance shall be deemed an unlawful combination and confederacy under the provisions of this act. *f. 7.*

Unlawful meetings being held at alehouses, &c. a justice may declare the license void.

Two justices, upon evidence on oath that any meeting of any society hereby declared to be unlawful, or any meeting for any seditious purposes hath been held after 12th July 1799, at any house, room, or place licensed to sell ale, beer, wine, or spirits, may declare the license for selling thereof forfeited (E), and the person keeping the same shall, after the day of such declaration, be liable to every penalty and forfeiture he would have been subject to if such license had expired on that day. *f. 14.*

Places for debating, &c. for the purpose of raising money, deemed disorderly, unless previously licensed.

And whereas places have of late been used for delivering lectures, and holding debates, which are not within the provisions of 36 G. 3. c. 8. (a) but which have in many instances been of a seditious and immoral nature, and other places have of late been used for the like purposes, under the pretence of reading books, pamphlets, newspapers, or other publications, it is enacted that every house, room, field, or other place, at or in which any lecture shall be publicly delivered, or any public debate had on any subject whatsoever, for the purpose of collecting money or other valuable thing from the persons admitted; and also every place which shall be opened or used as a place of meeting for the purpose of reading books or other publications, and to which any person shall be admitted by payment of money, or by ticket or token of any kind delivered in consideration of money or other valuable thing, or where the same shall be received under pretence of paying for refreshment or other thing, or under any other pretence, or by means of any device whatever, shall be deemed a disorderly house or place, within the meaning of the said act of 36 G. 3. c. 8. unless the same shall have been previously licensed in manner hereafter mentioned; and the person by whom such place shall be opened or used for any of the purposes aforesaid shall forfeit 100l. for every day or time so opened or used as aforesaid, to the person who shall sue, and be otherwise punished as the law directs in cases of disorderly houses. And every person conducting the proceedings, or acting as moderator, president, or chairman, at any such place, or therein debating or delivering any discourse, or furnishing any book, pamphlet, newspaper, or other publication as aforesaid; and also every person who shall pay, give, collect, or receive any money or other thing, or agree so to do, in respect to the admission of any person,

Penalty.

(a) This act of 36 G. 3. c. 8. was to continue for 3 years, from 18th December 1795, and from thence to the end of the then next session of parliament.

or shall deliver out, distribute, or receive any ticket or token as aforesaid, knowing such place to be so opened or used for such purpose as aforesaid, shall, for every such offence, forfeit 20l. *f. 15.*

Every person who shall appear at, or behave as master, or as the person having the command, government, or management of any such house or place, shall be deemed to be a person by whom the same is opened or used as aforesaid, and shall be liable to be prosecuted as such, notwithstanding he be not in fact the real owner or occupier. *f. 16.*

Person appearing as master liable to prosecution, although not the real owner.

And any justice who shall by information upon oath, have reason to suspect, that any house, room, field, or place, or any part thereof, is opened or used for the purpose of delivering lectures, or for public debate, or for reading books, pamphlets, newspapers, or other publications contrary to this act, may go to such place, and demand admittance; and if he shall be refused, the same shall be deemed a disorderly house or place, and all the provisions herein contained, and in the said act of 36 G. 3. c. 8. shall be applied to such house or place; and every person refusing such justice admittance, shall forfeit 20l. *f. 17.*

Justices may enter suspected places.

Provided nevertheless, that two justices at any general or special sessions may, by writing under their hands and seals, grant a license to any person to open any such house or place for the purpose of delivering, for money, any such lectures as aforesaid on any subject, the same being clearly expressed in such license; or for reading books, pamphlets, newspapers, or other publications (for which license 1s. shall be paid and no more), and the same shall be in force for one year, and no longer, or for any less time therein specified; which license the justices at any general sessions may revoke by their order, a copy whereof shall be served upon the person to whom such license was granted, or be left at such place, and thereupon the same shall cease and be utterly void. *f. 18.*

Sessions may license houses for lecturing, &c. and may revoke the same.

And any justice may go to any such licensed place at the time of delivering, or appointed for delivering lectures therein, or while opened or used for that purpose, and demand admittance, and if he shall be refused, notwithstanding such license the same shall be deemed a disorderly house or place; and every person refusing such admittance shall forfeit 20l. *f. 19.*

Justices may enter licensed places.

Any two justices upon evidence on oath that any such licensed place is commonly used for delivering lectures of a seditious or immoral tendency, or that books or other publications of the like nature are there commonly kept and delivered to be read, may declare such license forfeited, and the same shall from thenceforth be utterly void. *f. 20.*

And if used for seditious purposes, may declare the license void.

And every house or place licensed to sell ale, beer, wine,

Every alehouse, &c. to be deemed licensed for reading.

or spirits, shall also be deemed a place licensed for reading books, pamphlets, and other publications within the meaning of this act: But nevertheless, any two justices, on proof on oath that publications of a seditious or immoral nature are usually distributed for the purpose of being read at such place, may adjudge such license forfeited (E), and the person keeping such house shall, after such adjudication, be liable to every penalty and forfeiture as if such license had expired. *f. 21.*

Not to extend to the universities, &c. nor to payments of school-masters.

Provided always, that nothing herein shall extend to any lectures delivered at the *Universities*, or in the *Inns of Court* or *Chancery*, or by the professors of *Gresham College*; and no payment made to any Schoolmaster or other person delivering lectures for the instruction of youth only shall be deemed a payment for admission within the meaning of this act. *f. 22.*

Printers to give notice to the clerk of the peace, who shall grant a certificate and file the notice, and transmit a copy thereof to a secretary of state.

And whereas the societies aforesaid and many others have caused to be published in great quantities, divers printed papers of an irreligious, treasonable, and seditious nature, tending to revile religion, and excite hatred and contempt of his majesty's person, government, and laws, and it is highly important that it should be known by whom such papers are printed, it is enacted that every person having any printing press, or types for printing, shall cause notice thereof (F), signed in the presence of and attested by one witness, to be delivered to the clerk of the peace or his deputy, who shall grant a certificate thereof (G), for which shall be paid 1s. and no more; and shall file such notice, and transmit an attested copy thereof to a secretary of state. And every person who, not having delivered such notice and obtained such certificate, shall keep or use any printing press or types for printing, or having delivered such notice and obtained such certificate shall use any press or types in any other place than that expressed in such notice, shall forfeit 20l. *f. 23.*

Printers to the king and universities accepted.

Provided that nothing herein shall extend to his majesty's printer, or to the two universities. *f. 24.*

Letter founders, and printing press makers, to give notice.

And every letter founder, or maker or seller of types for printing, or of printing presses, shall give notice (H) of his intention of carrying on such business to the clerk of the peace, or his deputy, who shall thereupon grant a certificate thereof (I), for which shall be paid 1s. and no more, and shall file such notice and transmit an attested copy thereof to a secretary of state; and every person who shall make or sell any type for printing, or printing press, without having given such notice, and obtained such certificate, shall forfeit 20l. *f. 25.*

An account to be kept of types and printing presses sold.

Every person who shall sell types for printing, or any printing press as aforesaid, shall keep an account in writing of all persons to whom any such shall be sold, and shall produce such

such account to any justice who shall in writing demand the same; on pain of forfeiting 20*l*. *f*. 26.

And every person who shall print any paper or book, which shall be meant or intended to be published or dispersed, whether sold or given away, shall print upon the front of every such paper, if printed on one side only, and upon the first and last leaves of every paper or book which shall consist of more than one leaf, in legible characters, his name, and the name of the city, town, parish, or place; and also the name (if any) of the square, street, lane, court, or place in which his dwelling house, or usual place of abode shall be; and in default shall, for every copy of such paper so published or dispersed, forfeit 20*l*. and also every person assisting therein, shall forfeit the like penalty. *f*. 27.

The names and place of abode of the printer, to be printed on every paper and book.

Provided that nothing herein shall extend to any papers printed by the authority and for the use of either house of parliament. *f*. 28. Nor shall any person who shall disperse or assist in dispersing any paper printed under the authority of the head officers of any of the principal offices of state, or of any board of revenue, or the army or navy, without the regulations of the aforesaid act being complied with previous to the passing of the said act, be liable to the penalties of the said act. 41 G. 3. c. 80. *f*. 1.

Papers printed by the authority of parliament excepted.

Every person who shall print any paper for hire or profit shall keep one copy thereof at least, on which he shall write or print the name and place of abode of the person by whom he is employed, and shall keep the same for six calendar months next after the printing thereof, which he shall produce to any justice who, within that time, shall require to see the same; on pain of forfeiting for every such neglect 20*l*. 39 G. 3. c. 79. *f*. 29.

Printers to keep copies of what they print, and to print thereon the name and abode of his employer.

And any person to whom, or in whose presence, any printed paper not having the name and place of abode of any person printed thereon in manner aforesaid, or having a fictitious or false name or place of abode printed thereon, shall be sold, or offered for sale, or given *gratis*, or offered so to be, or shall be pasted, fixed, or left in any public place, or in any other manner exposed to public view, may take and convey such offender before a justice, or may deliver him to a constable or other peace officer to be carried before a justice, to the intent that he may hear and determine whether such person hath been guilty of any offence against this act. *f*. 30.

Persons selling printed papers without the name and abode of the printer, to be taken before a justice.

Provided that nothing herein shall extend to any engravings, or to the printing by letter-press of the name, or the name and address, business or profession of any person, and the articles in which he deals, or to any papers for the sale of estates or goods by auction or otherwise, nor to alter any rule, regulation, or provision in any act of parliament respecting the printing,

Not to extend to engravings, newspapers, or printing names and addresses, &c.

printing, publishing, or distributing any newspaper or other printed paper. *f.* 31, 32.

Suspected places may be searched for presses and types.

And if any justice shall, from information on oath, have reason to suspect that any printing press or types for printing are used or kept for use, without notice given and certificate obtained as hereby required, or in any place not included in such notice and certificate, he may by warrant empower any constable in the day time with such persons as shall be called to his assistance to search any house, room, or place, and to seize and carry away every printing press found therein, together with all the types and other articles thereto belonging and used in printing, and all printed paper there found. *f.* 33.

Penalty for permitting unlawful meetings.

Every person who shall knowingly permit any meeting of any society hereby declared to be an unlawful combination or confederacy, or of any division, branch, or committee of such society, to be held in his house or apartment, shall, for the first offence, forfeit 5*l.*, and for every other offence committed after the date of his conviction be deemed guilty of an unlawful combination and confederacy. *f.* 13.

Punishment of persons guilty of combinations and confederacies.

And every person who shall be guilty of any such unlawful combination and confederacy as aforesaid may be proceeded against in a summary way, either before one justice, or by indictment; who, on conviction (K) on the oath of one witness, by such justice, shall be committed to the common gaol or house of correction without bail for three calendar months, or shall forfeit 20*l.* as to such justice shall seem meet; which if not forthwith paid into the hands of such justice he may levy the same by distress, together with the costs, and for want of sufficient distress may commit such offender to the common gaol or house of correction, for any time not exceeding three calendar months. And if any such offender be convicted upon indictment, he may be transported for seven years, or may be imprisoned for not exceeding two years, as the court shall think fit. *f.* 8.

Justices may mitigate punishments.

Provided always, that such justice may mitigate such punishment (if he shall see cause) so as not to reduce the same to less than one third, whether it be by imprisonment or fine, *f.* 9.

Offenders not to be prosecuted two ways.

But no person prosecuted before a justice shall be prosecuted also by indictment; and if prosecuted by indictment, shall not be prosecuted before a justice. *f.* 10.

Provided that nothing herein shall extend to prevent any prosecution by indictment or otherwise for any offence within the meaning of this act, which might have been prosecuted if this act had not been made, unless the offender hath been prosecuted under this act. *f.* 11.

Prosecutions to be within three months.

Provided always, that no person shall be prosecuted or sued for

for any penalty hereby imposed, unless such prosecution be commenced, or action brought within three calendar months.

§. 34.

All pecuniary penalties hereby imposed exceeding 20l. are to be recovered in the courts at *Westminster*. If not exceeding 20l. (for the recovery whereof no provision is herein before contained) may be recovered before one justice where such penalty shall be incurred, or the person having incurred the same shall happen to be, in a summary way (L.). And in case such last mentioned penalty shall not be forthwith paid, such justice shall cause the same to be levied by distress and sale of the offender's goods, together with the costs of such distress and sale, and for want of sufficient distress such offender shall be committed to the common gaol or house of correction, for not exceeding six nor less than three calendar months. §. 35.

Penalties, how to be recovered.

And all pecuniary penalties, whether recovered before a justice or by action, shall be applied half to the informer, and half to the king. §. 36.

Application thereof.

And every action and suit, against any justice, peace officer, or other person acting in pursuance of this act, shall be commenced within three calendar months, and shall be laid in the proper county; and if the defendant recover he shall have double costs. §. 37.

Limitation of actions.

And all convictions, adjudications, notices, and certificates, shall be in the forms E. F. G. H. I. K. L. §. 28.

Conviction, &c.

A. Indictment for a riot.

Westmorland. THE jurors for our lord the king upon their oath present, that A. O. late of the parish of — in the county of — yeoman, B. O. late of the same, yeoman, C. O. late of the same, yeoman, and divers other persons (to the jurors aforesaid as yet unknown) on the — day of — in the — year of the reign of — at the parish aforesaid in the county aforesaid, with force and arms, unlawfully, riotously, and routously, did assemble and gather together to disturb the peace of our said lord the king; and so being then and there assembled and gathered together, in and upon one A. I. in the peace of God and of our said lord the king then and there being, unlawfully, riotously, and routously, did make an assault, and him the said A. I. then and there unlawfully, riotously, and routously, did beat, wound, and ill treat, and other wrongs to the said A. I. then and there unlawfully, riotously, and routously did, to the great damage of the said A. I. and against the peace of our said lord the king, his crown and dignity.

B. Record

B. Record of a riot on view.

Westmorland. **B**E it remembered, that on the — day of — in the — year of the reign of — We J. P. and K. P. esquires, two of the justices of our said lord the king, assigned to keep the peace in the said county, and A. S. knight, sheriff of the said county, at the complaint and request of A. I. of — in the county aforesaid, yeoman, in our proper persons have come to the mansion house of him the said A. I. in — aforesaid, and then and there do find A. O. of — yeoman, B. O. of — yeoman, C. O. of — yeoman, and other malefactors and disturbers of the peace of our said lord the king to us unknown, in a warlike manner arrayed, to wit, with clubs, swords, and guns, unlawfully, riotously, and routously assembled, and the same house besetting, many evils against him the said A. I. threatening, to the great disturbance of the peace of our said lord the king, and terror of his people and against the form of the statute in that case made and provided: And therefore we the aforesaid J. P. K. P. and A. S. the aforesaid A. O. B. O. and C. O. do then and there cause to be arrested, and to the next gaol of our said lord the king in the county aforesaid to be conveyed, by our view and record of the unlawful assembly, riot, and rout aforesaid convicted, there to remain every and each of them respectively, until they shall severally and respectively have paid to our said lord the king the several sums of 10l. each, which we do impose upon them and every of them separately for their said offence. In testimony whereof to this our present record we do put our seals. Dated at — aforesaid, the day and year aforesaid,

C. Commitment of the rioters upon view.

Westmorland. J. P. and K. P. esquire, two of the justices of our said lord the king, assigned to keep the peace within the said county, and A. S. knight, sheriff of the said county; To the keeper of the gaol of our said lord the king at — in the said county, and to his deputy and deputies there, and to every of them greeting: :

Whereas upon complaint made unto us by A. I. of — yeoman, we did this present — day of — go to the house of the said A. I. at — aforesaid, and there did see A. O. of — yeoman, B. O. of — yeoman, C. O. of — yeoman, and other malefactors to us unknown, assembled together in an unlawful, routous, and riotous manner, to the terror of the people, and against the peace of our said lord the king, and against the form of the statute in that case made and provided: We do therefore send you, by the bringers hereof, the bodies of the said A. O. B. O. and C. O. convicted of the said riot, rout,

rout, and unlawful assembly, by our own view, testimony, and record; commanding you in the name of our said lord the king, to receive them into the said gaol, and them and every of them respectively there safely to keep until they and every of them shall respectively pay to our said lord the king, the several and respective sum of 10l. each, which we have set and imposed upon them, and each and every of them separately for the said offence. Given under our hands and seals at ———— afore said in the county afore said, the day and year afore said.

D. Precept to summon a jury.

Westmorland. J. P. and K. P. esquires, two of the justices of our lord the king, assigned to keep the peace in the county afore said, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed; To the sheriff of the said county, greeting: On the behalf of our said lord the king, we command you, that you cause to come before us at ———— in the county afore said, on the ———— day of ———— next ensuing, 24 honest and lawful men of the county afore said, every one of which to have lands and tenements within the said county to the yearly value of 20s. of charter land or of freehold, or 26s. 8d. of copyhold, or both, over and above all charges, to enquire for our said lord the king, and for our indemnity in this behalf upon their oath, of certain riots, routs, and unlawful assemblies at ———— in the county afore said, lately committed, as it is said; and that you return upon every person so by you to be impannelled 20s. of issues at the afore said day, to be by them respectively forfeited if they shall not appear and be sworn to enquire of the premises at the same time and place. And this you shall in nowise omit, on pain of 20l. Given under our hands and seals at ———— afore said in the county afore said, the ———— day of ———— in the ———— year of the reign of ————.

Jurors oath.

YOU shall true enquiry and presentment make of all such things as shall come before you concerning a riot rout and unlawful assembly said to have been lately committed at ———— in this county; you shall spare no one for favour or affection, nor grieve any one for hatred or ill will, but proceed herein according to the best of your knowledge, and according to the evidence that shall be given to you; So help you God.

The oath which your foreman hath taken on his part, you and every of you shall well and truly observe and keep on your parts; So help you God.

The inquisition, indictment, or presentment of the jury.

Westmorland. **A**N inquisition for our lord the king, indented and taken at ——— in the county aforesaid, the ——— day of ——— in the ——— year of the reign of ——— by the oath of ——— honest and lawful men of the county aforesaid, before J. P. and K. P. esquires, justices of our said lord the king, assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, who say upon their oath aforesaid that A. O. of ——— yeoman, B. O. of ——— yeoman. C. O. of ——— yeoman, together with other malefactors and disturbers of the peace of our said lord the king, to the jurors aforesaid as yet unknown, on the ——— day of ——— now last past, at ——— aforesaid in the county aforesaid, with force and arms, to wit, with clubs, swords, and guns, unlawfully, routously, and riotously did assemble, to disturb the peace of our said lord the king; and so being then and there assembled and gathered together, the mansion house of A. I. yeoman, at ——— aforesaid, unlawfully, routously and riotously did enter, and in and upon him the said A. I. then and there unlawfully, routously, and riotously did make an assault, and him the said A. I. then and there unlawfully, routously, and riotously did beat, wound, and ill treat, in disturbance of the peace of our said lord the king, and to the terror of his people, and against the form of the statute in such case made and provided.

We whose names are hereunto set, the abovesaid jurors, do find this inquisition true;

We the justices abovesaid do hereby impose the fines here under-written, on the aforesaid offenders;

A. O. 20l.

B. O. 20l.

C. O. 20l.

A. B.

C. D. &c.

E. Form of adjudication of forfeiture of license to sell ale, &c.

Westmorland **B**E it remembered, that on this ——— day to wit. of ——— in the ——— year of the reign of his present majesty, A. O. of ——— being a person licensed to sell [as the case may be], is duly convicted before us, two of his majesty's justices of the peace for the county of ——— in pursuance of an act of the 39th year of the reign of ——— [set forth

forth the title of the act (a)], for that he the said A. O. of _____ at _____ did permit a meeting of a society [describe the society], which is an unlawful combination and confederacy within the intent and meaning of the said act, to be held at _____ being the house [as the case may be] of the said A. O. wherein the said A. O. is licensed to sell [as the case may be]; Wherefore we the said _____ do adjudge and declare, that the license [or licenses, as the case may be] is [or are] for such offence, forfeited.

Given under our hands and seals this _____ day of _____ in the year of our lord _____ and in the _____ year of the reign of his majesty king _____

F. Form of notice to the clerk of the peace, that any person keeps any printing presses, or types for printing.

To the clerk of the peace for _____ [here insert the county or place] or his deputy.

I A. P. of _____ do hereby declare that I have a printing press and types for printing, which I propose to use for printing, within _____ [as the case may require], and which I require to be entered for that purpose, in pursuance of an act passed in the 39th year of the reign of his majesty king George the third, [set forth the title of the act]. Witness my hand, this _____ day of _____

Signed in the presence of
A. W.

G. Form of a certificate that notice has been given of a printing press, or types for printing.

I _____ clerk [or deputy clerk] of the peace for _____ do hereby certify that A. P. of _____ hath delivered to me a notice in writing, appearing to be signed by him and attested by A. W. as a witness to his signing the same, that he the said A. P. hath a printing press and types for printing, which he proposes to use for printing, within _____ and which he has required to be entered, pursuant to an act passed in the 39th year of his majesty's reign, [set forth the title of the act]. Witness my hand, this _____ day of _____

(a) An act for the more effectual suppression of societies established for seditious and treasonable purposes; and for better preventing treasonable and seditious practices.

H. Form of notice to the clerk of the peace, that any person carries on the business of a letter founder, or maker or seller of types for printing, or of printing presses.

To the clerk of the peace for ——— or his deputy.

I A. F. of ——— do hereby declare, that I intend to carry on the business of a letter founder or maker or seller of types for printing, or of printing presses, [as the case may be] at ——— and I hereby require this notice to be entered in pursuance of an act passed in the 39th year of the reign of his majesty king George the third, [set forth the title of the act.]

Signed in the presence of

A. W.

I. Form of certificate that the above notice has been given.

I C. P. clerk [or deputy clerk] of the peace for [as the case may be], do hereby certify, that A. F. of ——— hath delivered to me a notice in writing, appearing to be signed by him, and attested by A. W. as a witness to his signing the same, that he intend to carry on the business of a letter-founder, or maker or seller of types for printing, or of printing presses, at ——— and which notice he has required to be entered in pursuance of an act of the 39th year of his majesty king George the third, [set forth the title of the act]. Witness my hand, this ——— day of ———

K. Form of a conviction of an unlawful combination and confederacy.

Westmorland, **BE** it remembered, that on this ——— day to wit. **B** of ——— in the ——— year of the reign of ——— A. O. of ——— is duly convicted before me, [or us] ——— of his majesty's justice of the peace for ——— in pursuance of an act of the 39th year of the reign of king George the third, [set forth the title of the act], for that he the said A. O. after the passing of the said act, to wit, on the ——— day of ——— at ——— did, contrary to the said act, become a member of [or as the case may be, act as a member of, or maintain correspondence or intercourse with, or by contribution of money or otherwise, abet or support] a society [describing the society], which society is an unlawful combination and confederacy within the intent and meaning of the said act; Wherefore I [or we] the said ——— do adjudge that he the said A. O. do pay [or be imprisoned] as a penalty for his offence, in pursuance of the said act. Given under my [or our] hands and seals, this ——— day of ———

of — in the year of our lord — and in the — year of the
 reign of his majesty king —.

L. General form of conviction.

Westmorland, **BE** it remembered, that on this — day of
 to wit. — in the — year of the reign of
 — A. O. of — is duly convicted before me [rus]
 — of his majesty's justices of the peace for — in pur-
 suance of an act of 39th year of the reign of king George the
 third [set forth the title of the act], for that the said A. O.
 on the — day of — at — did, contrary to the
 said act, keep [or use, as the case may be] a printing press [or
 types for printing, or carrying on the business of a letter foundry,
 or maker or seller of type, or printing presses] not having given
 such notice, and obtained such certificate as by the said act is
 required, or in — being a place not specified in any notice
 given by the said A. O. in pursuance of the said act, whereupon
 he had obtained such certificate as by the said act is required;
 or not keeping an account of a person to whom the said A. O.
 sold printing types, or a printing press, as the case may be; or,
 not printing his name, &c. as the case may require; or, not
 keeping a copy of a paper printed by him for hire, reward, gain,
 or profit, to wit, a paper [describing it, which the said A. O.
 printed, &c. or specifying any other offence against the act,
 and the time and place when and where the same was com-
 mitted.] Wherefore I [or we] the said — do adjudge
 that be the said A. O. do pay the sum of — as a penalty
 for his offence, in pursuance of the said act. Given under our
 hands and seals this — day of — in the year of our
 Lord — and in — the year of the reign of his majesty
 king —.

Rivers and navigation.

[8 G. 2. c. 20.—27 G. 2. c. 16.—19 G. 2. c. 22.—
 24 G. 2. c. 45.—4 G. 3. c. 12. s. 5.]

BY the 8 G. 2. c. 20. which was continued from time to
 time, and by the 27 G. 2. c. 16. was made perpetual,
 if any person shall either by day or night wilfully or mali-
 ciously pull down, cut down, pluck up, throw down, level,
 or otherwise destroy, any lock, sluice, floodgate, or other
 works, on any navigable river, erected or to be erected by
 authority of parliament; or rescue any person in custody for
 such offence; he shall be guilty of felony without benefit of
 clergy. And the offender may be tried in any adjacent county.

Destroying
 banks and other
 works.

But the attainder shall not work corruption of blood, loss of dower, or forfeiture of lands or goods. Persons discovering and convicting an accomplice shall have a pardon; and the hundred shall answer damages, not exceeding 20*l.* to be recovered as in cases of robbery. *f.* 1, 3, 4, 5, 6.

If any person shall wilfully and maliciously draw or pluck up any floodgate fixed or made in any wear or lock erected or to be erected by authority of parliament in or upon any navigable river, for preserving the navigation thereof, he shall on conviction upon the oath of one witness before two justices of the county or place, or of the adjacent county or place, be sent to the house of correction to hard labour for one month. *f.* 2.

But by the 4 G. 3. c. 12. Whereas the laws now in being are not sufficient for the preservation of the banks, floodgates, sluices, and other works belonging to rivers and streams made navigable by act of parliament, and for maintaining the navigation on such rivers and streams, it is enacted, that if any person shall wilfully or maliciously break, throw down, damage, or destroy, any banks, floodgate, sluices, or any other works, or open or draw up any floodgate, or do any other wilful hurt or mischief to any such navigation, so as to obstruct, hinder, or prevent the carrying on, completing, supporting, or maintaining such navigation, he shall be guilty of felony, and transported for 7 years. *f.* 5.

[Mr. Burn thought, that, "it seemed to be the offence in " the 2d clause of the 8 G. 2. c. 20. which was made trans-
" portation by the 4 G. 2. c. 12. ; the offences in the former
" clause being more severely punishable by that clause than
" by the 4 G. 3. c. 12." But herein we differ in opinion
from that gentleman, as it appears to us very clear that the
legislature intended to comprise in the 4 G. 3. the offences
respectively mentioned in both the clauses of the 8 G. 2. and
apply to the commission of them a punishment not so highly
penal on the one hand as that heretofore inflicted in respect
to the offences in the 1st clause mentioned, nor on the other
so lenient as that affixed to the commission of those enu-
merated in the 2d clause of 8 G. 2. : And this principle of vir-
tually annulling two or more species of punishments in re-
spect of offences that present scarcely a shade of difference in
point of consequences or turpitude, by enacting a new penalty
applicable thereto, has in other instances been adopted by the
legislature, and has been generally found to meet the evil
more effectually. *W.*]

By the 19 G. 2. c. 22. If any person acting as master of a ship shall cast out, or there shall be cast out, of any vessel being within any haven, road, channel, or navigable river, any ballast or rubbish, but only on the land where the tide

never comes, any one justice near the place may summon the master or owner, or other person acting as such, against whom the information shall be made, or issue his warrant to bring him before him, and upon due proof made, either by confession of the party offending, or on view of such justice, or oath of one witness, that any ballast or rubbish hath been cast out, the master or person acting as such shall be adjudged the offender, and shall forfeit not above 5l. nor under 50s. half to the informer, and half to the poor of the parish or place where such conviction shall be pronounced; to be levied by distress of the goods of the person so convicted, or of the ship or tackle; and the same, if not redeemed in five days, to be sold, rendering the overplus, if any be, after demand in writing, charges of distress and sale being first deducted; for want of sufficient distress, to be committed to gaol, or to the house of correction where the conviction shall be, for two months, or till payment of the penalties, or so much thereof for which the commitment shall be. *f. 1, 2.*

And as soon as any vessel shall be sunk, stranded, or run ashore, in any harbour, channel, or navigable river, or be brought in, or be there in a shattered condition, and permitted to remain there, and the owner or master shall begin to take down or carry away any of the rigging or tackle, or if there shall not be any person to take care of such vessel; any one justice of the county or place, or near which such fact shall happen, shall on information thereof summon the owner, or other person having or pretending to have the command thereof, or issue his warrant to bring him before him; and on conviction shall issue his warrant for seizing and removing such vessel, and also the rigging and tackle thereof, in such manner as he shall order and direct: And if such person shall not within five days give satisfactory security to the justice to clear the harbour of such vessel and of all the wreck and parts thereof, and pay the charges of seizing, removing, and disposing of the vessel and furniture, then the justice shall cause the hulk and tackle to be sold, and with the money pay the charges of clearing the place where the vessel shall lie, and of seizing, removing, and selling the same, rendering the overplus to the owner of the manor where the same shall happen. *f. 3.*

But nothing herein shall extend to affect the right of any lord of a manor near such haven &c. or of any other person having such rights, or having right to any fishery, manufactory, or royalty; nor to any materials used in building, &c. any quay, &c. on the banks, &c. of any river, &c. *f. 7.*

M. 32 G. 2. Brucklebank v. Smith. On a special verdict from *Northumberland* assizes, it was stated that the defendant *Mr. Smith* was a justice of the peace for the town and county of *Newcastle upon Tyne*; and that the plaintiff was a master of
M 2 a ship

a ship floating in the river *Tyne*, being a navigable river; that three tons of ballast and more were unloaded out of the said ship into a machine or vessel, called a hopper, in the said river, with intent that it should be carried therein into the high and open sea; and that it was accordingly carried out of the said river into the high and open seas, and was there cast out of the said hopper, where the water was more than 14 fathom deep, at a distance from any port, haven, channel, or navigable river; whereupon the said Mr. *Smith* convicted the plaintiff as an offender against this act. And the plaintiff brought his action. It was urged on behalf of the plaintiff that this was no offence within the meaning of the act; that the mischief which the legislature had in view, was throwing the ballast or rubbish either on the shore, or the sides of rivers, and below the full sea mark. But this was in the open and high sea, above 14 fathom deep, at a distance from any port, haven, channel, or river. By L. *Mansfield*, Ch. J. This is a general question, which goes farther than this particular case: But it is a very plain case, and clearly against the express prohibition of the act; which provides, that it shall not be thrown but upon the land: whereas this man says, that he has found a better way than that which the act has expressly prescribed. But here is such an opening to fraud in this way that he has thought a better one, that it would be dangerous to trust to this method, though it were not prohibited. However, it is enough that it is contrary to the express provision of the act. Indeed, if it were put upon the hopper, in order merely to carry it upon the land, that would only be the proper means of doing it, and therefore would not be an offence within the act: But this is with intent to lay it in the water; and there can be no security as to the place where the hopper may drop it. It is mighty easy, from the construction of the hopper, to drop it privately; and it is also the interest of the person who carries it in the hopper to drop it as soon as he can; that he may come the sooner again to fetch more. The shifting it out of one ship into another without intention to drop it any where would not be a case within the act; for that would not be a casting or throwing out at all, within the meaning of the act. And judgment was given by the court, unanimously, for the defendant the justice. 2 *Burr.* 656.

Stealing goods
on navigable
rivers.

By the 24 G. 2. c. 45. All persons who shall feloniously steal any goods or merchandize of the value of 40s. in any ship, barge, lighter, boat, or vessel, on any navigable river, or in any port of entry or discharge, or in any creek belonging to such river or creek, or from any wharf or quays, or shall be present and aiding therein, shall be excluded from the benefit of clergy.

Upon

Upon this statute the construction is confined to such goods and merchandizes as are usually lodged in ships, or on wharfs or quays.

Therefore, where *George Grimes* was indicted on this statute for stealing a considerable sum of money out of a ship in port, though great part of it consisted of Portugal money, not made current by proclamation, but commonly current, it was ruled not to be within the statute. *Foss.* 79.

At the Old Bailey, May 1784, one *Pike* was tried before *Adair*, Serjt. Rec. on this statute for stealing a quantity of deals "in a certain barge on the navigable river *Thames*." It appeared in evidence that as the barge with the deals, belonging to the prosecutor was navigating down the *Thames*, the lighterman, fearful of an accident, brought it into *Limebruse Dock*, where it was moored. By the efflux of the tide it was left aground, and in the night the boat and the deals above the value of 40 s. were stolen. The court held, that the offence laid was not proved within the meaning of the statute: That in the construction of statutes that take away the benefit of clergy, the law required that the fact laid in the indictment should be strictly proved; but in the present case, the evidence proved that the larceny was not committed "on the navigable river *Thames*," but upon the banks of one of its creeks: that it was true, the statute also took away the benefit of clergy from any person who should steal to the amount of 40 s. "in any port of entry or discharge, or in any creek belonging to any navigable river, port of entry or discharge;" but this being a different branch of the act, the indictment should have charged the fact accordingly. The prisoner therefore was convicted only of the simple larceny. *2 East's P. C. c. 16. f. 85.*

But where A. having purchased corn on board a vessel in the *Thames*, sent his barge to receive it in bulk; and his servant, employed by him to superintend the delivery, separated part from the rest while on board the vessel, and embezzled that part by conveying it away immediately by another boat; it was held larceny on the stat. 24 G. 2. c. 45. for stealing from a vessel in the navigable river *Thames*. *Abraham's case.* 2 Leach. 960.

Robbery.

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I. *What it is.*

Two kinds of robbery.

THERE are two kinds of robbery; from the *person*, and from the *house*: It is the former of these that is treated of under this title; the latter, *viz*, robbery from the house, belongeth to the titles *Larceny* and *Burglary*.

Derivation of the word robbery.

Robbery, *L. Coke* says, is derived from the *French de la robe*, both because they bereave the true man of his robes, and also for that his money is taken by them from some part of his garment, or robes about his person. But in truth the word seemeth to be much more ancient than the introduction of the *French* into our language; and probably was deduced to us through the channel of *Saxony* or *Denmark*. *Robber*, in the *Saxon* is *reofere*; in the *Low Dutch*, *roover*; in the *Danish*, *roffure*; by a transmutation of the letters *b*, *f*, and *v*, frequent in all kindred languages. The *Gothic* translation of the gospels useth *birahudedun* to signify *they robbed*, from *birauban*, *to rob*; which being stripped of the prefix augmentative is *rauban*. The *Saxons* expressed the same by *bereafudon*, which we still preserve when we say *they bereaved*; and in the northern parts of *England*, the words *robbing* and *reaving* are still used promiscuously to signify rapine and plunder: and when the violent winds do strip a house of its thatch or covering, it is called *reaving*.

Definition of robbery.

Robbery is a felony by the common law, committed by a violent assault

assault upon the person of another, by putting him in fear, and taking from his person, his money, or other goods, of any value whatsoever. 3 Inst. 68.

[*A felony*] For to make it robbery, there must be a felonious intention; and so it ought to be laid in the indictment.

1 H. H. 532.

[*By a violent assault*] The taking must be without the will or approbation of the owner, and to constitute the crime of robbery, the property must be taken from the person either by violence or by putting him in fear; either of these circumstances is sufficient. But no sudden taking of a thing unawares from the person, as by snatching any thing from the head or hand is sufficient, unless some injury be done to the person, or unless there be some previous struggle for the possession of the thing taken.

In the case of *R. v. Lapior* (under title larceny) it was holden to be a robbery, because the act of taking Mrs. Hobart's ear-ring was done with such violence as to injure her person, the blood being drawn from her ear, which was otherwise much hurt.

So in the case of *K. v. Davies alias Beard*, who was indicted for taking a gentleman's sword from his side *clam et secretè*, it was holden to be a robbery, because the gentleman, observing that the prisoner had laid hold of his sword, laid hold of it himself at the same time, and struggled for it. 2 East's P. C. c. 16. f. 17.

[*By putting him in fear*] In the case of *Macdaniel* and others (O. B. December 1755) *S. Macdaniel*, *J. Berry*, *J. Eagan*, and *J. Salmon*, were indicted as accessaries before to a robbery committed by *P. Kelly* and *J. Ellis* on the person of the said *J. Salmon*. The jury found a special verdict, that *Kelly* and *Ellis* were convicted of the said robbery; that before the robbery all the prisoners and one *Thomas Blee*, in order to procure to themselves the rewards given by act of parliament for apprehending robbers, met at the Bell inn in Holbourn, and agreed that *Blee* should procure two persons to commit a robbery on the prisoner *Salmon*; that for that purpose, they contrived that *Blee* should inform the persons so to be procured that he would assist them in stealing some linen in the parish of *St. Paul, Deptford*; that in pursuance of this agreement and with the privity of all the prisoners, *Blee* procured *Ellis* and *Kelly* to go with him to *Deptford* in order to steal linen; but did not at any time before the robbery inform them of the intended robbery; that they went with *Blee* to *Deptford*, and the prisoner *Salmon* being likewise waiting there in pursuance of the agreement, they robbed him of the money and goods mentioned in the indictment: That none of the prisoners had any conversation with *Ellis* and *Kelly* previous to the robbery;

The putting in
fear need not be
strictly proved,

but that *Macdaniel*, *Egan*, and *Berry* saw them and approved of them as proper for the purpose of robbing *Salmon*. This was argued before all the judges; who were unanimously of opinion that, supposing a robbery to have been committed, all the prisoners were guilty as accessories before, except *Salmon*, who could not be accessory to the robbing of himself; but so far as the goods were taken from *Salmon* in pursuance of the agreement before-mentioned, they were of opinion that in legal construction he was not robbed at all, since it is of the essence of robbery, that the goods be taken against the will of the owner; although the circumstance of putting in fear is perhaps not necessary to be inserted in the indictment, at least it need not to be strictly proved, for if a man be knocked down without any previous warning, and thereby rendered insensible, or if he manfully resist and be overpowered without being under any fear at all, it is not the less robbery upon that account. And the prisoners were discharged of the indictment. But afterwards an indictment was found against them, and prosecuted at the expence of the crown on the representation of the judges, for a conspiracy; in which the principal facts found by the special verdict in the robbery bill were charged. On this indictment they were all convicted; and the court gave judgment, that they be all set in and upon the pillory twice; that they stand committed for seven years, and until they find sureties for their good behaviour for three years afterwards. One of them (*Egan*) lost his life in the pillory, through the resentment of the populace. And on that account, the others did not stand a second time. But they were all in *Newgate* very closely confined in pursuance of their sentence. *Fest.* 121.

In the case of *Blackham*, who assaulted a woman with intent to commit a rape, and she without any demand from him offered him money, which the prisoner took, but still continued to treat her with violence to effect his original purpose till he was interrupted by the approach of another person; it was holden to be a robbery by a majority of the judges. 2 *East's P. C.* c. 16. s. 128.

During the riots in the year 1780, a boy with a cockade in his hat knocked violently at the door of the prosecutor, *Mahon*, who thereupon opened it; and the boy said to him, "Remember the poor mob." *Mahon* told him to go along, on which he said, "Then I will go and fetch my captain." He went; and the mob, to the amount of 100, armed with sticks and whatever they could get, soon after came headed by the prisoner, *Taplin*, on horseback, having his horse led by the same boy. On their coming up, the boy said, "Now I have brought my captain," and the bye-standers said, "You must give them money." *Mahon* then asked the prisoner "How much," who answered, "Half-a-crown, Sir." On which

which *Maben*, who had before only intended to give a shilling, gave the prisoner the half-a-crown. This was holden to be a robbery. *Ib.*

In *Simons's case* (*Cornwall Lent Ass. 1773*), it appeared that the prisoners took a bushel and an half of wheat worth 8s., and obliged the owner to take 134d. for it, threatening to kill her if she refused; this was holden to be a robbery by all the judges on a conference. *Ib.*

So in *Spencer's case*, the prosecutor *Anderton* having in his possession corn belonging to other persons, the prisoner came to him together with a mob marching in military order; and one of the mob said, that if he would not sell they would take it away; the prisoner said, that they would give 30s. a load, and if he would not take that, they would take the corn away, on which the prosecutor sold that for 30s. which was worth 38s.: this was holden to be robbery; and the prisoner was convicted and executed. *Ib.*

In the cases of *R. v. Jones alias, Evans*, O. B. Feb. 1776, and *K. v. Harrold*, O. B. June 1778, the prisoners were severally convicted for a robbery, in obtaining money from the prosecutors on an accusation of an unnatural crime. *Ib. f. 130.*

The same question was afterwards very much considered in the case of *J. Donolly*, who was tried and convicted, (O. B. Feb. 1779), for several highway robberies on the person of the hon. *C. Fielding*, &c. &c. The judgment was respited; and the following was stated for the opinion of the judges. Mr. *F.* was going through *Soho-square* between six and seven in the evening, when he met the prisoner, whom he had never seen before; the prisoner desired he would give him a present; Mr. *F.* asked, "for what?" He answered, "you had better comply, or I will take you before a magistrate and accuse you of an attempt to commit an unnatural crime." Mr. *F.* gave him half a guinea, which the prisoner said was too little, but Mr. *F.* had no more in his pocket. Two days after he met the prisoner again in *Oxford Street*, who made use of the same threats as before, and obtained from Mr. *F.* one guinea more. Mr. *F.* said he was exceedingly alarmed at both the times, and under that alone gave the money. After hearing arguments on both sides, all the judges were of opinion that it was robbery. In giving judgment in this case, Willes; J. (after noticing the definition of robbery by lord *Hale* and others to the same effect,) observed that the following ingredients were necessary to constitute the offence: 1. A felonious intent, or *animus furandi*. 2. Some degree of violence or putting in fear. 3. A taking from the person of another. He observed that he should confine himself to shew that the prisoner's offence came within the above description, as the judges did not mean to draw the line as to what should or should

Obtaining money by putting in fear, by threatening a charge of sodomy, is felony.

The putting in fear need not be laid in the indictment so that the fact be charged to be done violently and against the will of the party.

should not constitute robbery; and therefore they declined giving an answer to the cases put by the prisoner's counsel, saying that every case must depend upon its own circumstances: but that the facts in this case warranted them in saying, as to the first point, that there was a felonious intention in the prisoner to rob the prosecutor. Upon the second point, that the putting in fear was not necessary to be laid in the indictment, so that the fact were charged to be done violently and against the will of the party. Nor was the circumstance of actual fear necessary to be proved; but that the law, in *odium spoliatoris*, would presume it. In like manner, it had been often holden that actual violence was not necessary, but that constructive violence was sufficient, for where such a terror was impressed on the mind as did not leave the party a free agent; and in order to get rid of that terror, he delivered his money, it was robbery. It was also clear, that no actual danger was necessary; for a man might commit a robbery without having any offensive weapon; and though a tinder-box or candlestick were used. For when a villain came and demanded a man's money, no one knew to what length he would proceed. That here the situation of the prosecutor was that of a young gentleman accosted at night in the street by a stranger, whom he had never before seen and must have suspected to be a villain, who demanded a present. Even that seemed sufficient; but the stranger went on and told him that he had better comply, &c. That was a threat of a personal injury; for he had every thing to fear in being dragged through the streets as a culprit charged with an unnatural crime. That, therefore was a reasonable fear which might operate *in constantem* as well as *in meticulosum virum*. It had, he said, been urged in behalf of the prisoner, that this was a fraudulent extorting and not a taking by violence. But in many cases fraud would supply the want of violence; as in the case of burglary, where breaking was necessary to be laid in the indictment, and yet getting admission into a house under colour of law, or pretence of taking a lodging, or business, had been often holden sufficient evidence of the breaking into the house. But the judges, he observed, did not entirely determine this case on that ground, but were of opinion that there was proof of a constructive violence; which they thought sufficient. As to the third point, that there was clearly a taking from the person, though a taking in the presence of the party would have been sufficient. As to a taking by the collar or arm, all the judges, he said, held that that did not make any material distinction, but that sufficient was proved in this case for the jury to find the prisoner guilty of robbery. *Id.*

The same point was ruled in the cases of *J. Staples*, O. B.

1779, and *D. Hickman*, O. B. July 1783, who were convicted of similar offences, and executed. *Ib.*

No case however has gone further than that of *James and Ezekiel Astley* who were indicted at *Stafford Sum. Ass.* 1792, for robbing *Jonathan Grundy*. It appeared that the prisoners and a person unknown went to a public house near *Birmingham* during the time of the riots, which was three or four hundred yards from Mr. G.'s house, early in the morning, where one of them said that they were going up to Mr. G.'s house, and if he did not turn out the whack, "his house would be down by two o'clock in the morning;" on which the stranger observed, that he himself would do it; that he was at the head of the mob, and had 3 or 400 men at command at any time; with other like discourse. They all departed towards Mr. G.'s house; but before they arrived there, they saw his servant at a little distance from it, whom they accosted, *James Astley* telling him that he was come as friend to let Mr. G. know that this man (the stranger) was the head of the mob, and the first man who had entered all the places which were destroyed at *Birmingham*. They, then seeing Mr. G. come out of the house, pulled off their hats and shouted Church and King. Mr. G. did the same, advancing towards the prisoners in much alarm, when the stranger accosted him, saying, "I am come out of friendship to you Mr. Grundy, to let you know your house is marked to come down to-morrow morning at two o'clock. I am the head of the mob; they are 2000 strong in *Birmingham*. I must have something to make my men drink. I can bring 2 or 3000 in an hour's time, or keep them back." Mr. G. said "as to something to drink, you shall have any thing you have a mind for." The stranger said, "I must have money." Mr. G. pulled out half a crown from his pocket, and offered it to him; but the stranger refused it and turned away with expressions of contempt. Mr. G. then asked what he wanted? the stranger replied he must have 20 guineas; and on Mr. G. saying that he had not so much in his house, the other told him that if he did not give him something handsome for his men to drink, his house should come down. Mr. G. said, that he might have 9 or 10 guineas, which the stranger asked to see, and as Mr. G. was taking his purse out of his pocket, *James Astley* told him he might depend upon it that the other man was the head of the mob, and the like sort of discourse, which had passed before concerning his power, particularly that he was the first man who had entered every house that had been destroyed. Mr. G. was so struck with that expression that he immediately took the money out of his purse (9 guineas and a half), which he gave to the stranger, who counted it, and demanded to have something to drink. They all went into

Threatening to bring a mob and burn down prosecutor's house if he did not give them money: which he gave under fear; robbery.

Mr. G.'s house, where they had liquor, and in going away assured him that he should be protected. Mr. G. said that he was greatly alarmed, but not for his person; that no injury was threatened to his person; that when he delivered his money his apprehension was, that if he had refused so to do the prisoners would have gone to *Birmingham*, and have returned with other persons and have pulled down his house and plundered it before he could have removed his wife, who was in the house in great agitation, as the prisoners had threatened, and in the same manner as different houses in *Birmingham* had been before pulled down. The counsel for the crown admitting it to be a new case; *Grose J.* proposed to have a special verdict found, but on account of the prisoner's situation, it was agreed that the truth of the evidence should be left to the jury, and if they should find the prisoners guilty, the judgment should be respited, and the facts submitted to the judges for their opinion, whether the evidence amounted to robbery. The jury found the prisoners guilty; saying that they were satisfied that Mr. G. did not deliver his money from any apprehension of danger to his life or person, but from an apprehension that if he refused, his house would at some future time be pulled down, as the prisoners and the stranger threatened, in the same manner as other houses in *Birmingham* had been before. In *Mich. Term 1792*, a majority of the judges held this to be robbery. *Ib. f. 131.*

But in *R. v. Wood and Knewland*, O. B. *Jan. 1796*, who, under pretence of an auction got a woman into a house and compelled her by threats of carrying her before a magistrate and to prison for not paying for a lot pretended to have been bid for by her to pay them 1 s. through fear of prison, and for the purpose of obtaining her liberty, but without fear of any other personal violence: this was holden to be duress, and not robbery. *Ashburn J.*, in delivering the opinion of the judges, observed that there was no reason for such a degree of terror in this case as to induce the prosecutrix to part with her money; she might have known that having done no wrong, if she had been taken to prison, the law would have taken her under its protection and set her free; and that the law did not allow the fear of being sent to prison to be a sufficient ground of terror to constitute a robbery. *Ib.*

But if the property be not taken by actual violence, and the owner only deliver it in consequence of prior threats, such delivery must be enforced by terror actually felt at the time to constitute the crime; otherwise there is neither actual nor constructive violence in the taking, and consequently no robbery.

Therefore the prosecutor, in consequence of the prisoners having on a prior day threatened to charge him with an unnatural

natural crime unless he would give him money &c. on a subsequent day gave them 20l. and a bond to secure the annual payment of 50l. ; but added that, though at the beginning of the business he apprehended injury to his person or character, yet that he had no such apprehension when he gave the money and the bond, but parted with both for the purpose of bringing the prisoners to justice, and with that view only, it was holden on a reference to the judges, that this was not a robbery. *R. v. Reave and another. Ib. 132.*

Nor is it a robbery, if the prosecutor's fear arise only after the property is taken. Therefore where *Harman* being on horseback desired *Halfpenny* to open a gap for him; and while he was so doing, *Harman* took the opportunity unperceived to pick his pocket of his purse, *Halfpenny* turning round and seeing the purse in *Harman's* hand demanded it of him, who then menaced *Halfpenny* and went away with the purse. On an indictment for robbery, the prisoner was holden guilty of simple larceny only; the property being obtained by stealth, and not by violence or putting in fear, the words of menace being used after the taking. *Ib. 133.*

And taking from his person] Taking a thing in a man's presence is in law a taking from the person. *Hale's Pl. 73. 2 Str. 1015. R. v. Francis and others.*

Thus, if one take or drive my cattle out of my pasture, in my presence, this is robbery, if he make an assault upon me or put me in fear. *Hale's Pl. 73.*

II. *Assaulting with intent to rob.*

If any person shall with any offensive weapon or instrument unlawfully and maliciously assault, or by menaces or in any forcible or violent manner, demand any money or goods, with a felonious intent to rob him, he shall be guilty of felony, and be transported for seven years. 7 G. 2. c. 21.

If any such offender break gaol, or escape before such transportation, or return before the expiration of seven years, he shall suffer death as a felon without benefit of clergy. *f. 2.*

With any offensive weapon &c. assault] *Trufty and Howard* were indicted (Q. B. July 1783) for a felonious assault on *J. Halse* with a certain offensive weapon called a pistol, with a felonious intent to rob him. It appeared in evidence that the prisoners rushed out of a hedge on the prosecutor, the driver of a returned chaise, as he was passing along the road; and one of them presenting a pistol to him bid him stop, which the boy did, but called out for assistance to some persons whom he had met just before. On this one of the prisoners threatened to blow out his brains if he called out any more,

Assaulting with
intent to rob.

which

which the prosecutor nevertheless continued to do; and presently he obtained assistance and took the men who had made no demand of money. They were convicted and transported. 1 *East's P. C. c. 8. f. 11.*

So in *R. v. Sharwin*, *Oakham* sum. ass. 1785. The prisoner was indicted for having with force and arms with a certain offensive weapon called a wooden staff, unlawfully maliciously and feloniously made an assault on *J. Gough*, with a felonious intent to rob him, against the statute &c. It appeared that while *Gough* and one *Jenkinson* were riding together on the highway, *Gough* received a violent blow from a great stone which was thrown by the prisoner from the hedge. Going towards the spot, *Gough* asked him how he could be such a villain as to throw the stone; on which the prisoner threatened *Gough* and struck him violently with a staff; but at length he was overcome and secured. The prisoner's face was blacked, and he denied his name: but on being afterwards questioned as to his motive, he said he was very poor, and wanted half a guinea to pay his brewer. He did not ask for money or goods. After conviction, the question was submitted to the judges, whether this evidence were sufficient to maintain the charge in the indictment? In Michaelmas term following the judges (10 being present) held the conviction proper. *Ib. f. 13.*

From the two preceding cases it appears that the offence may be complete within the former part of the first section of the act, *though there be no demand of money or goods*, notwithstanding a prior case of *R. v. Parfait* (O. B. Dec. 1748) which was supposed to establish a contrary rule. And on adhering to the statute, it is evident that the felonious intent to rob may be manifested, either by the offender making a malicious assault on the prosecutor with an offensive weapon or instrument, without also demanding money,—or by his demanding money by menaces or in a violent manner &c.

Or by menaces &c.] The indictment in the case of *R. v. Jackson* and *Randall* charged, that the prisoners unlawfully maliciously and feloniously made an assault on *A. Gillespie*, and him the said *A. G.* unlawfully and maliciously did menace, by menacing to blow his brains out, with a felonious intent the monies of the said *A. G.* from his person and against his will feloniously to steal take and carry away, against the statute &c. The recorder (O. B. April 1783) thought the indictment insufficient: but the prisoner was convicted; and on a reference to the judges, they held that the indictment should either have stated that the assault was made with an offensive weapon, or that a demand was made. 1 *East's P. C. c. 8. f. 12.*

So in the case of *Remnant*, who was committed, for “that
with

with force and arms he made an assault on the prosecutor with intent feloniously to steal take and carry away from his person &c." The Court of King's Bench ordered that he should be bailed, being of opinion that this was not a charge of any offence within the statute. 5 T. R. 169.

Demand any money] From the two cases above mentioned, *R. v. Trusty*, and *R. v. Sharwin*, it appears that where the offence consists in making the assault with intent to rob, it is not necessary that there should be any demand of money.

In the case of *R. v. Pegge* (*Derby ass.* 1789) the indictment charged that the prisoner with a certain offensive weapon or instrument called a stick in and upon *J. R.* feloniously did make an assault, and did then and there in a forcible and violent manner feloniously demand the goods &c. of him the said *J. R.* with a felonious intent to rob him &c. and his goods &c. from his person and against his will feloniously to steal take and carry away, against the statute. The prisoner was convicted on clear evidence of the fact to support the charge. But the words of the statute not being pursued in that part of the indictment which charged the prisoner with assaulting the prosecutor with an offensive weapon, it not being said to be done *unlawfully and maliciously*, judgment was respited that the opinion of the judges might be taken upon it: In Trinity term 1789 they held that the conviction was right, the statute being in the disjunctive, and an offence well charged within the act in the *latter part of the indictment* without the words *unlawfully and maliciously*. 1 *East's P. C. c.* 8. *f.* 12. From the above it seems to be admitted, that where the assault is the only offence charged within the act, it must be stated to be done *unlawfully and maliciously* as well as feloniously; and that where the offence is that of demanding money &c. by menaces or in a violent manner, the word "feloniously" is sufficient without the others "unlawfully and maliciously."

Intent to rob] This intent must be alleged in the indictment. Therefore where the indictment only charged that the prisoner with force and arms, i. e. with a certain offensive weapon &c. unlawfully maliciously and feloniously made an assault on *W.* the prosecutor "with a felonious intent the goods chattels and monies of him the said *W.* from the person and against the will of the said *W.* then and there feloniously to steal take and carry away" &c. the Court (*O. B. October 1795*) held that this was not a sufficient description of the offence within the statute, namely, an attempt to rob, which always includes force and violence. The prisoner was accordingly discharged from this indictment, and tried upon a new one, in which the assault was alleged to be "with a felonious intent the monies of the said *W.* from

from the person and against the will of the said *W.* then and there feloniously and violently to steal take and carry away &c.;” and on this indictment he was convicted. 1 *Eaff’s P. C. c. 8. f. 12.*

Killing a person
intending to rob.

If any person be indicted, or appealed, for killing any person attempting to rob, he shall be acquitted. 24 *H. 8. c. 5.*

III. *Levying hue and cry on a robbery committed.*

Hue and cry.

Immediately upon robberies committed, fresh suit shall be made from town to town, and from county to county. 13 *Ed. 1. f. 2. c. 1.*

IV. *Hundred when liable to answer damages.*

Hundred shall
answer.

The hundred where the offence was committed shall be answerable for the robberies and for the damages, if the offender be not taken. 13 *Ed. 1. f. 2. c. 2.* 28 *Ed. 3. c. 11.*

Hundred neg-
lecting hue and
cry, shall con-
tribute.

But such hundred may recover half the damages from any other hundred where fresh suit after hue and cry shall not be made. 27 *El. c. 13. f. 2.*

Hundred not
answerable, if
robber is appre-
hended.

But the hundred shall not be chargeable, if one robber be apprehended in 40 days from the publication in the gazette; as is hereafter mentioned. 8 *G. 2. c. 16. f. 3.*

Nor for a rob-
bery in a new
highway.

Also, a new highway changed for an ancient one without legal authority is said not to be such a highway in which the inhabitants are bound to watch nor to make amends for a robbery therein committed. 1 *Haw. c. 76. f. 3.*

Nor if on the
Lord’s day.

Likewise if any person, which shall travel upon the Lord’s day, shall be then robbed, the hundred shall not be liable: nevertheless they shall make hue and cry, on pain of forfeiting to the king as much as might have been recovered against the hundred, if the robbery had not been on the Lord’s day. 29 *C. 2. c. 7. f. 5.*

Except when
going to church.

Which shall travel] *M. 7 G. Tashmaker v. the hundred of Edmonton.* The plaintiff lived a mile or two from the church, and going thither with his lady in his coach upon a Sunday was robbed; and he brought his action against the hundred, and recovered; for the statute extends only to the case of travelling: But *Pratt Ch. J.* said if they had been going to make visits, it might have been otherwise. 1 *Str. 406. Comyns, 345.*

Nor if it be in
an house.

Also, if any man be robbed in his house, the hundred shall not be charged therewith, whether it be done by day or night; because every man’s house is his castle, which he ought to defend;

defend; and if any one be robbed in his house, it shall be esteemed his own fault. *Dalt. c. 84.*

Also, a robbery done in the night shall not charge the hundred; but yet if it be in the day-time, or there be so much day-light as that one may see a man's face, so that the robber may be known, though it be before the sun rising or after the sun setting, the hundred shall answer for it. *Dalt. c. 84.*

Nor if it be in the night.

By the 22 G. 2. c. 24. No person shall recover against the hundred more than the value of 200l. unless the persons robbed shall at the time of the robbery be together in company, and be in number two at the least, to attest the truth of his or their being so robbed.

In what case there must be two in company

And by the yearly land tax acts, no receiver-general, or any of his agents employed for carrying any money on account of the said tax, shall maintain an action against the hundred for being robbed, unless the persons carrying such money be together in company and be in number three at the least.

In what case three in company.

V. Manner of bringing the action against the hundred.

In order to make the hundred liable, these things following must be done;

The person robbed shall, with as much convenient speed as may be, give notice thereof unto some of the inhabitants near the place. 27 El. c. 13. s. 11.

Notice to the inhabitants.

And though that place, where notice is given, be in another hundred or county, yet it is good enough; for a stranger may not know the confines of the hundred or county; and that hundred where notice is given must make hue and cry, and by that means the hundred where the robbery was committed will soon know thereof. *Cro. Car. 41. 379.* 3 Salk. 184.

He shall also give notice, with as much convenient speed as may be, to a constable of the hundred, that is, the high constable or to a constable of some place near; or leave notice in writing at his house, describing therein the felon, and the time and place of the robbery. 8 G. 2. c. 16. s. 1.

Notice to a constable.

M. 16 G. 2. Ball v. The hundred of Wymerley. Upon a case made at the assizes, it was stated that soon after six in the morning the plaintiff was robbed at two miles and a half distance from Northampton, and the highwayman cut his bridle and stirrups, threw them into a ditch, and turned his horse loose; that the plaintiff recovered them, remounted, rode through a village called Cotton, where he gave no notice, met three men on the road, whom he informed of the robbery, and arrived at Northampton by seven o'clock, and gave

notice to an inn-keeper there, from whence he went to *Rotherthorpe*, three miles off, where the high constable lived, and between eight and nine gave notice. And whether this notice was sufficient to maintain the action, was the question. And the court on argument held it to be good notice, for the high constable is the properest person to go to, and it is not required that he go to the next constable. It appears that the plaintiff lost no time, considering the circumstances he was in: and *Rotherthorpe* is not at such a distance, but that it may come within the meaning of the word *near*. So the plaintiff had judgment. 2 *Str.* 1170.

Every constable to whom such notice shall be given, and every high and petty constable within the hundred, as soon as the same shall come to his knowledge, by the party robbed, or by any to whom such notice hath been given, shall with the utmost expedition make or cause to be made fresh suit and hue and cry after the felons, on pain of 5*l.* with full costs, half to the king, and half to him who shall sue in six months. 8 *G. 2. c. 16. s. 11, 12.* Note; the penalty here is but small; but as the not pursuing hue and cry was also an offence at the common law, the offender may be indicted at the common law, and thereupon fined and imprisoned.

Notice in the
gazette.

The party robbed shall also within 20 days cause notice to be given in the gazette, describing therein the felon, and the time and place of the robbery, and the goods and effects whereof he was robbed. 8 *G. 2. c. 16. s. 1.*

Describing therein the felon] *H. 33 G. 2. Whitworth* and the hundred of *Grimshoe*. The plaintiff *Whitworth*, on the trial at the assizes, gave evidence that one of the robbers was tall and lusty, had on a brown woollen cap or bonnet, and a blue jacket, was of a fresh complexion, had particular large red eye-brows, and full ruddy cheeks, by either of which the plaintiff thought he could have known the robber from any other person. The notice in the gazette was, that the robber was a "tall lusty man, of a fresh complexion, had on a "brown woollen cap or bonnet, and a blue jacket." It was objected, that this description in the gazette was insufficient, a very material circumstance, as to the eye-brows and countenance, being omitted. And of that opinion was the court; and the defendant had judgment. 2 *Wilson*, 109.

To be examined
on oath.

He shall also be examined on oath within twenty days next before the action brought before a justice in or near the hundred, whether he knows any of the robbers; and if he confesses that he does, he shall, before the action brought, be bound over by the said justice effectually to prosecute the person or persons so known to have committed the said robbery. 27 *El. c. 13. s. 11.*

He shall also be examined] That is, the party robbed who

is to bring the action, shall be examined. But here note a diversity. *T. & Car. Raymont* and the hundred of *Oking*. The servant was robbed of his master's goods, and the servant made oath before a justice, and the master brought the action against the hundred. By the court: The action well lies for the master; and the servant's oath is sufficient, for it was properly in his notice that he was robbed, and did not know any of the robbers, and the master knows it not that he was robbed, or who were the persons, but by report of his servant; and it would be inconvenient, if the master should not bring the action, but the servant only; for the servant might release, or compound, or discontinue the suit, and so the master should have the loss by his falsehood; therefore the master shall bring the action, and have his servant who was robbed to be his witness. *Gro. Car. 37.*

Within 20 days next before] The time of making such oath must be laid in the declaration; for that is unavertable. 3 *Salk. 184.*

Before a justice] And if the justice shall refuse upon his request to examine him, an action will lie against the justice, because he doth not act therein as a judge of record, but as a minister appointed for the examination by the statute. *Gro. Car. 211.*

Whether he know any of the robbers] *H. 19 G. 2. William King v. the hundred of Bishop's Sutton.* In an action brought against the hundred, the oath proved was, that he had good reason to suspect the fact was done by *Robert Gibbs* and *William Langford*, both of such a parish. And a doubt arising at the assizes, whether this were sufficient or not, a case was made, and twice argued at the bar. And upon the second argument, the court were of opinion that the examination did not maintain the action. The oath required is a condition precedent, and for the sake of the hundred, and to prevent screening the offenders. There is a great deal of difference between suspecting and knowing: a man who knows the offender may positively stop at the word *suspect*; to avoid being bound to prosecute: and though it would be equivocating, yet it would hardly be perjury assignable; it being only a suppression of part of the truth. He should have said, *I suspect them to be the men, but I do not know it.* It would be dangerous to let them go out of the words of the act, and therefore the plaintiff failed in the action, and paid the costs of a nonsuit. 2 *Str. 1247.*

Also before the action be commenced, he shall go before the chief clerk, or secondary, or the filazer of the county, or the clerk of the pleas of that court wherein such action is intended to be brought, or their deputies; or before the sheriff of the county, and enter into 100*l.* bond, to the high constable,

Bond to pay costs.

But if they be not waived in flight, nor seized by the king's officers, or the lord of the manor, he may take his goods again wherever he finds them, without the formality of restitution being awarded, if they be not sold in open market; and this also, although he do not prosecute the robber. *Id.*

But if he shall prosecute the robber to conviction, he shall have restitution, although they have been waived, and seized, and even sold in open market. *Kely, 48.*

Notice in the Gazette, before the action brought against the hundred.

NOTICE is hereby given, (pursuant to an act of parliament made in the eighth year of the reign of his late majesty king George the second, intituled, An act for the amendment of the law relating to actions on the statute of hue and cry), that A. I. of _____ in the county of _____ gentleman, on _____ the _____ day of _____ now last past, between the hours of eight and nine in the forenoon of the same day, was overtaken and robbed by two persons in the highway, between _____ and _____ in the county of _____ one of them being a tall thin man, marked on the face with the small pox, and having on a brown riding coat, mounted on a black mare; the other a middle-sized man, wearing his own hair of a light brown colour, and riding on a grey gelding; which persons took from him the said A. I. ten guineas in gold, seven shillings in silver, an halfpenny, and a silver watch, and then made off.

Examination of the person robbed before the action brought.

Westmorland. **T**HE examination of A. I. of _____ in the _____ county aforesaid, yeoman, taken on oath before me J. P. esquire, one of his majesty's justices of the peace for the said county, dwelling in [or near to] the hundred of _____ within the said county, the _____ of _____ in the _____ year of the reign of _____

Who saith, that on Monday the _____ day of this present month of _____ between the hours of two and three in the afternoon of the same day, at or near a place called _____ he was assaulted in the highway there leading from _____ to _____ by two horsemen, whereof one was a tall lusty man, wearing a black wig, and a blue great coat, mounted on a bay gelding, about fifteen hands high, with a black mane and tail, and
 4
 star

scar in his forehead; and the other a middle sized man, of a swarthy complexion, having a large scar on his left cheek, having on a dark brown riding coat, and mounted on a black gelding; and by them robbed on the highway aforesaid of the sum of — in money, one silver watch of the value of 4*l.* and one pocket book; And that he the said A. I. at the time of the said robbery committed did not know, nor yet doth know, either of the said persons who committed the same; And that he is since informed, that the said highway and place where he was so robbed as aforesaid, are in the parish of — and within the hundred of — in the said county.

Taken, made, and signed the day and
year above written, before me,
J. P.

A. I.

Indictment for a robbery.

Westmorland. **T**HE jurors for our lord the king upon their oath present, That A. O. late of — in the county of — labourer, on the — day of — in the — year of the reign of — with force and arms, at — in the county of — in the king's highway there, upon one A. I. in the peace of God and of our said lord the king then and there being, feloniously did make an assault, and him the said A. I. in bodily fear and danger of his life, in the highway aforesaid, then and there feloniously did put, and one gold watch of the value of — of the goods and chattels of him the said A. I. from the person, and against the will of the said A. I. in the highway aforesaid, then and there feloniously and violently did steal, take, and carry away; against the peace of our said lord the king, his crown and dignity.

Note, the form of a warrant for apprehending a robber upon fresh suit is inserted under the title **Buz** and **Crp**:

Rout. See **Riot**.

Rum. See **Excise**.

Run Goods. See **Excise**.

Sabbath. See **Lord's Day**.

Sacrilege. See **Larceny**, **Burglary**.

Sale.

[29 C. 2. c. 3. f. 17.]

BY 29 C. 2. c. 3. no contract for the sale of any goods, wares, and merchandize, for the price of 10l. sterling or upwards, shall be good, except the buyer shall accept part of the goods so sold, and actually receive the same, or give something in earnest to bind the bargain, or in part payment, or that some note or memorandum in writing of the said bargain be made and signed by the parties to be charged by such contract, or their agents thereunto lawfully authorised. *f. 17.*

Where the agent of the owner at an auction for the sale of an estate put it up in so many lots at certain prices, and no person bidding for the same, he put it up again in fewer lots at other certain prices; and still no person bidding, he put it up all together in one lot at a certain price; and on no person's bidding, the estate was withdrawn from sale: this was holden not to be a bidding of the owner by an agent, so as to subject the party to the auction duty for want of a notice in writing to the auctioneer (previous to the auction) of such agency as required by stat. 19 G. 3. c. 56. and 28 G. 3. c. 37. in order to excuse the owner from the payment of the auction duty. *Cruse v. Crisp, 3 East's R. 337.*

Sales at auction. See *Excise*.

Salmon. See *Fish and Fisheries*.

Salt. See *Excise*.

Schoolmasters.

HOW far schoolmasters, being protestant dissenters, are exempted, as such, from the penalties inflicted by the laws for teaching school without licence, is treated of under the title *Dissenters*.

Where a schoolmaster, in correcting his scholar, happens to occasion his death; if on such correction he is so barbarous as to exceed all bounds of moderation, he is at least guilty of manslaughter; and if he make use of an instrument improper for correction, and apparently endangering the scholar's life, as an iron bar, a sword, or kick him to the ground, and then stamp on his belly, and kill him, he is guilty of murder. *1 Haw. c. 29. f. 5.*

Seamen.

[1 G. 2. c. 25. f. 1. 2.—2 G. 2. c. 36. f. 3. 4. 6. 7. 9.
—19 G. 2. c. 21. f. 5.—22 G. 2. c. 33. f. 40.—c. 44.
—31 G. 2. c. 10. f. 4. 22. 28.—3 G. 3. c. 8.—3 G. 3.
c. 16.—9 G. 3. c. 30. f. 5.—31 G. 3. c. 39. f. 1. 2. 3. 4. 5.
7. 10.—35 G. 3. c. 28. f. 1. to 7.—35 G. 3. c. 95.—
37 G. 3. c. 53. f. 1. 2. 3. 4.—37 G. 3. c. 73. f. 1. 2. 3.
4. 9. 11.—44 G. 3. c. 13. f. 1. 2. 3. 4. 5.—45 G. 3.
c. 81.—46 G. 3. c. 127. f. 1. 3.]

NO listed seaman shall be taken out of his majesty's service by any process other than for some criminal matter, unless affidavit be first made that the debt or damage amounts to 20l. 31 G. 2. c. 10. f. 28.

In what cases they may be arrested.

But the plaintiff may, on notice first given to the defendant, enter a common appearance, and proceed to judgment and outlawry, and have execution other than against his body. f. 22.

No court martial may punish or try any offence committed by any seaman in his majesty's service, which shall not be committed on the main sea, or in great rivers beneath the bridges, or in a haven or creek within the jurisdiction of the admiralty; except in the case of spies, or of mutiny and desertion, or disobedience, or of offences committed on land in foreign countries. 22 G. 2. c. 33. f. 40.

What offences the court martial may punish.

Seamen who have been employed in the king's service since the accession of king *George* the second, and not deserted, may set up and exercise such trades as they are apt for, in any town or place of *Great Britain* or *Ireland* without molestation (except in *Oxford* or *Cambridge*); and if any person be sued thereupon, and the plaintiff be cast, such person shall have double costs. 22 G. 2. c. 44. 3 G. 3. c. 8.

Where they may exercise trades.

A seaman, instead of being committed to the house of correction for default of paying the penalty for swearing, shall be put in the stocks for one hour for every single offence, and for any number of offences of which he shall be convicted at one and the same time two hours. 19 G. 2. c. 21. f. 5.

Convicted of swearing.

The treasurer, comptroller, surveyor, clerk of the acts, or any of the commissioners of the navy may punish seamen and others, making disturbances in the yards or offices, and may bind them to their good behaviour, and to appear at the next assizes, or general quarter sessions, to be prosecuted for such offence. 1 G. 3. c. 25. f. 1. 2.

Making disturbance in the yards.

Personating seamen in his majesty's service, or their heirs, executors, or administrators.

By the 31 G. 2. c. 10. Whosoever willingly and knowingly shall personate or falsely assume, or procure any other to personate or falsely assume, the name or character of any officer, seaman, or other person, entitled or supposed to be entitled to any wages, pay, or other allowances of money, or prize money, for service done on board any of his majesty's ships or vessels; or willingly and knowingly shall personate or falsely assume the name or character of the executor or administrator, wife, relation, or creditor of any such officer or seaman or other person, in order to receive any wages, pay, or other allowances of money, or prize money, as aforesaid; or shall forge or counterfeit, or procure to be forged or counterfeited, (or utter or publish as true, knowing the same to be false, forged, or counterfeited, 9 G. 3. c. 30. s. 6.) any letter of attorney, bill, ticket, certificate, assignment, last will, or any other power or authority, in order to receive any such wages, pay, or other allowances of money or prize money as aforesaid: or shall willingly and knowingly take a false oath, or procure any other person to take a false oath, to obtain the probate of any will or letter of administration, in order to receive the payment of any wages, pay, or other allowances of money or prize money, due or that were supposed to be due to any such officer, seaman, or other person as aforesaid, who has really served, or was supposed to have served, on board of any of his majesty's ships or vessels; every such person so offending shall be guilty of felony without benefit of clergy. s. 4.

And for the more effectual bringing the offenders to justice, the treasurer, comptroller, surveyor, clerk of the acts, or any commissioner of the navy, may act as justices, in causing any person charged with forging or counterfeiting, or procuring to be forged or counterfeited, any letter of attorney, bill, ticket, certificate, assignment, last will, or other power or authority, or with uttering or publishing the same as true, in order to receive any wages, pay, or other allowance due to any officer, seaman, or other person in his majesty's service, or with taking or procuring false oaths to be taken, for any the purposes aforesaid; or to obtain a probate of any will, or letter of administration, in order to receive such wages, pay, or allowance,—to be apprehended, committed and prosecuted for the same; and the constables, gaolers, and other officers, shall obey their warrants accordingly. 9 G. 3. c. 30. s. 5.

In like manner, by the 3 G. 3. c. 16. Whoever shall personate or falsely assume the name and character of an out-pensioner of Greenwich hospital, in order to receive the out-pension

Out-pensioners of Greenwich hospital.

pension due to him, or procure any other to do the same, shall be guilty of felony without benefit of clergy.

And in order to receive their pension half yearly as it shall become due, such pensioners shall, together with the printed bill delivered to them by the commissioners, produce a certificate under the hand of the minister and churchwardens where they reside that such person is, to the best of their knowledge and belief, the person named in such bill.

Concerning seamen in the merchant service, it is enacted by the 2 G. 2. c. 36. that no master of a ship shall proceed on a voyage, without agreeing in writing with each mariner (apprentices excepted), to be signed by such mariner, for wages; and by 31 G. 3. c. 39. the same is extended to seamen employed in the coasting trade, on pain of 5l. for each mariner, on conviction before one justice by the oath of one witness, to be levied by distress; for want of distress, to be committed till paid. *f. 1, 2.*

Concerning seamen in the merchant service, and in the coasting trade.

By 37 G. 3. c. 73. such agreement shall be agreeable to the purport and effect of a schedule annexed to the act. *f. 11.*

If the mariner *desert* after he hath signed the agreement, he shall forfeit the wages due to him at the time of deserting; and on application from the master, owner, or commander, of the ship, such justice may cause him to be apprehended; and if he shall refuse to proceed on the voyage, without sufficient reason to the satisfaction of the justice, the said justice shall commit him to the house of correction, there to be kept to hard labour not exceeding 30 days nor less than 14 days. 2 G. 2. c. 36. *f. 3, 4.* 31 G. 3. c. 39. *f. 3.* and also 45 G. 3. c. 81.

Deserting.

And if any seaman absent himself from his ship without leave, he shall forfeit for every day's absence two days pay to Greenwich hospital, to be deducted by the master out of his wages; the same to be entered in a book, and signed by the master and two officers of the ship; and the same to be paid over to the officer who collects the 6d. a month deducted out of seamen's wages, for the said hospital. 2 G. 2. c. 36. *f. 3, 9.* 31 G. 3. c. 39. *f. 4, 7.*

Absenting himself without leave.

If any seaman not entering into the king's service shall leave his ship before he hath a discharge in writing, he shall forfeit one month's pay in like manner. 2 G. 2. c. 36. *f. 6.* 31 G. 3. c. 39. *f. 4, 10.*

And the master shall pay the seamen's wages, if demanded, in 30 days after the ship is entered in the custom-house, or at the time of discharge, which shall first happen, deducting out of such wages the aforesaid forfeiture; on pain of 20s. to such seaman, to be recovered in like manner as his wages. 2 G. 2. c. 36. *f. 7.* 31 G. 3. c. 39. *f. 5.*

In

Seamen arrested
by civil or criminal
process.

In order to prevent the practice of obtaining the liberation of seamen by means of improperly suing out civil or criminal process, by 44 G. 3. c. 13. it is enacted, that petty officers or seamen arrested by sheriffs or by other officers shall be kept in custody after being entitled to be discharged from any process, and be conveyed to the commander in chief, or some commissioned officer, to serve on board his majesty's fleet. *f. 1.*

Sheriff, &c. conducting such
seaman, &c.
how to be paid.
Transfer of such
seaman, &c. to
be certified.

And the sheriff, gaoler, or other officer, shall be paid, by the treasurer of the navy, upon producing a certificate, for conducting such seaman at the rate of 2s. per mile. *Id.*

The transfer of such seaman from one sheriff &c. to another shall be certified upon the back of the process, by the party in whole custody they shall be, who shall state that such seaman is liable to be kept in the service, or as the case may be. *f. 2.*

Remedy against
the sheriff, &c.
for neglect.

If any sheriff &c. shall neglect so to convey such seaman, he shall be liable to an action of trespass at the suit of such petty officer &c. or seaman. *f. 3.*

Sheriff, &c. suffering an escape.

If any sheriff &c. shall suffer any such seaman to escape, he shall be liable to the penalty of 100l. recoverable in any of the courts of record at *Westminster*; one moiety thereof to the king, and the other to the party suing. *f. 4.*

Limitation of
action; and
costs.

And any action by virtue of this act must be brought within three months after the fact; and if the plaintiff fail in such action the defendant shall have treble costs. *f. 5.*

Seamen deserting from merchant ships trading to or from the West Indies.

By 37 G. 3. c. 73. to prevent the desertion of seamen from merchant ships, every seaman, mariner, or other person, who shall desert during the voyage either out or home from any *British* merchant ship trading to or from his majesty's colonies in the *West Indies*, shall, over and above all punishments, penalties, and forfeitures, to which he is now subject, forfeit all the wages he may be entitled to from the master or owner of the ship on board of which he shall enter immediately after such desertion. *f. 1.*

Masters hiring
seamen who
have deserted.

And every master or commander of any such ship, who shall engage any such person knowing him to have deserted from any other ship, shall forfeit 100l. *f. 2.*

Masters hiring
seamen in the
West Indies.

No such master or commander shall hire any seaman in any port in the said colonies at more than double the wages such person contracted for when he entered on board, unless authorised by the governor, chief magistrate, collector, or comptroller of such port; and all agreements contrary thereto shall be void, and the person hiring any seaman contrary to the intent and meaning of this act shall forfeit 100l. *f. 3.*

And

And the master of every such ship shall have on board at the time the same is cleared out from *Great Britain* one apprentice under 17 years of age, and duly indented for three years, for every hundred tons admeasurement of such ship, according to the certificate of registry; and such indenture shall be duly enrolled at the custom-house of the port within one month after the date of execution thereof; and such apprentices shall be exempt from serving in his majesty's navy for that term; and every owner or master neglecting to enrol such indenture in manner aforesaid shall forfeit 10*l.* to be paid one moiety by the owner, and the other moiety by the master, and to be recovered as herein-after mentioned, *f. 4.*

To have an apprentice for every 100 tons.

All which said penalties may be recovered in the courts at *Westminster*; but such as do not exceed 20*l.* may be recovered before one justice, who shall not reside more than ten miles from the place of abode of the person complained of, who, upon information on oath of one witness, may issue his warrant to bring the offender before him; and in case he shall refuse or neglect to pay such penalty may levy the same by distress, to be applied one third to *Greenwich* hospital, one third to the seamen's hospital at the port where such forfeiture shall arise, and the remaining third to the person who shall inform and sue; and in case no distress can be found, such offender may be committed to the common gaol for three calendar months, or until he shall pay the same. *f. 9.*

Recovery and application of penalties.

[There are several other provisions and regulations made by 37 G. 3. c. 73. relating to seamen in the merchants service; but being no way connected with the office of a justice of peace, it is thought foreign to this work to insert them here.]

By 35 G. 3. c. 28. After 1st May 1795, every petty officer and seaman, or landman, non-commissioned officer of marines, and marine, [and by 35 G. 3. c. 95. the same is extended to boatswains, gunners, and carpenters,] serving or entering on board any vessel of his majesty, may allot a certain part of his monthly pay for the maintenance of his wife and children, or mother. *f. 1.*

Petty officers, seamen, &c. may allot a part of their pay for the maintenance of their families.

And by 37 G. 3. c. 53. *f. 1.* 3, 4. an increase of wages is made to such persons, and they are empowered to allot a part of such pay, to be calculated as nearly as may be to equal one half thereof, and according to the following table;

Pay.			Allowance.					
Per Month.			Per Day.			Per Month.		
£.	s.	d.	£.	s.	d.	£.	s.	d.
5	0	0	0	1	9	2	9	0
4	15	6	0	1	8	2	6	8
4	10	0	0	1	7	2	4	4
4	5	6	0	1	6	2	2	0
3	15	6	0	1	4	1	17	4
3	11	6	0	1	3	1	15	0
3	5	6	0	1	2	1	12	8
3	1	8	0	1	1	1	10	4
2	19	6	0	1	0½	1	9	2
2	17	6	0	1	0	1	8	0
2	15	6	0	0	11½	1	6	10
2	13	4	0	0	11	1	5	8
2	10	6	0	0	10½	1	4	6
2	7	6	0	0	10	1	3	4
2	5	6	0	0	9½	1	2	2
2	2	6	0	0	9	1	1	0
2	1	6	0	0	8½	0	19	10
2	0	6	0	0	8	0	18	8
1	19	6	0	0	8	0	18	8
1	19	3	0	0	8	0	18	8
1	17	6	0	0	7½	0	17	6
1	15	6	0	0	7	0	16	4
1	13	6	0	0	6½	0	15	2
1	11	6	0	0	6	0	14	0
1	10	6	0	0	5	0	11	8
1	9	6	0	0	4½	0	10	6
1	3	6	0	0	4	0	9	4
1	2	6	0	0	3	0	7	0
0	19	3						
0	14	0						

Petty officers,
&c. being
wounded.

And all petty officers, able seamen, ordinary seamen, landmen and marines, who may hereafter be wounded in action with the enemy, shall receive their full wages and allowances until their wounds are healed; or until (being declared incurable) they shall receive a pension from the chest at *Chatham*, or be admitted into *Greenwich* hospital. *s. 2.*

Volunteers, at
the time of en-
tering, may allot
a part of their

If any seaman or landman shall voluntarily enter himself with any regulating officer, and shall at the same time declare his name and place of abode, and that he is married, and the name

name of his wife, and her place of residence, and if he have children, how many, and how many are boys; and if he have a mother then living, the place of her residence; and that he is willing to allot a part of his wages for their support; then, in case his wife or mother reside in *London*, the same shall be paid by the treasurer of the navy; if at *Portsmouth*, *Plymouth*, or *Chatham*, or within five miles thereof respectively, by the clerk of the cheque at those places; elsewhere, by the receiver-general of the land-tax of the county or city, or collector of the customs, or excise nearest the residence of such wife or mother. And such regulating officer shall make out three declarations of allotment, and three orders of payment, to be triplicates of each other, and shall be in the following form;

pay to be paid as herein specified.

Regulating officer to make out three declarations of allotment of pay, and order of payment.

No. 1.

I A. B. { Petty officer,
Seaman,
Landman,
Non commissioned
Officer of marines,
Marine, } do hereby declare

Form.

that I { having a { wife { and one child a boy
having a { mother { and—children—of whom are boys } }
living at _____ in the county

of — { entered this day to serve in his
majesty's navy,
now serving on board his ma-
jesty's ship. } have allotted

— per day, out of my wages or pay, for the maintenance
of my { wife { and child
mother { and children } } and I do hereby direct you to

pay or cause to be paid to C. B. my { wife
mother } living in the
place and county aforesaid, at the end of every twenty-eight days
from the date hereof, the sum of — being at the rate of
— per day out of the wages or pay to grow due to me as a
— in his majesty's navy, a duplicate hereof having already
been transmitted to you, signed by three of the commissioners of his
majesty's navy, upon her producing a certificate, under the hands
of the minister and the churchwardens, or churchwarden, or the
elders or elder, of the parish where she resides, that, to the best of
their knowledge, the said C. D. is my { wife
mother } or, in the
event of the death of my wife, pay the sum aforesaid to the person
who shall, by the minister and churchwardens or churchwarden, or
elders or elder, of the parish where my said wife resides, be appoint-
ed.

Seamen.

ed to receive the same, for the maintenance of my { child
children }

Dated { at ———
{ on board his majesty's ship ——— } this ——— day
of ———

Signed A. B.
Thos. Bowling,
Lieut. in his majesty's navy.
(if on board) D. E. Captain.
F. G. Lieut. and Signing }
Officer.

To the Treasurer of his Majesty's Navy.
To the Receiver General of the Land-tax of ———
To the Collector of the Customs of the port of ———
To the Collector of the Excise at ———
To the Clerk of the Cheque at ———

(Signed) H. I. } Commissioners of his
K. L. } Majesty's Navy.
M. N. }

which being numbered and dated, and the blanks filled up, such seaman or landman shall sign the same, and such regulating officer shall also sign as a witness: and if such wife or mother shall then attend in person, such officer shall deliver to her one of the triplicate orders, and shall send the other two to the commissioners of the navy; but if such wife or mother shall not attend, such officer shall send all the said triplicates to the said commissioners, and shall specify and mention, opposite to the name of every man so entered, whether he have allotted any part of his pay as aforesaid, and to what amount, together with the date of such order. 35 G. 3. c. 28. s. 2.

Petty officer,
seaman, &c.
may allot a part
of his pay in
like manner.

And as often as the commander of any such vessel shall read over the muster of his ship's company, if any such petty officer or person shall declare by word of mouth, or deliver in writing, the name and place of abode of his wife, and number of his children, if he have any, and how many are boys, or that he has a mother living, and the place of her residence, and shall desire that a part of his wages may be paid for their support, the same shall be paid in manner aforesaid. s. 3.

By 46 G. 3. c. 127. s. 1. It is enacted that every petty officer, seaman, and landman, and every non-commissioned officer of marines, and marine, desiring to allot any pay under the 35 G. 3. c. 28. shall signify such desire by signing his name to two orders or declarations, in the form or to the effect required by that act, and directed to the commissioners of his majesty's navy, which said orders or declarations being witnessed by the captain or commander, and any other of the
signing

signing officers of the ship or vessel to which such petty officers &c., shall belong, shall be forthwith transmitted to the commissioners of the navy, and shall be full authority for them or any three of them, to make out and sign a bill in duplicate for payment of the sum allotted by such orders &c., to the person therein named; and the said commissioners, shall thereupon transmit one of such bills to the person to whom the allotment shall be made, and the other of such bills to the person by whom the same is to be paid.

And the commissioners of the navy shall examine such declarations and orders with the lists transmitted by such regulating officer, or commanding officer of any such vessel, and if found right they shall be filled up and signed by three commissioners, specifying the date; and they shall transmit one of the said declarations and orders to such wife or mother, and another to such receiver-general, collector of the customs or excise, or clerk of the cheque, to whom such order shall be directed, and the third shall be delivered to the treasurer of the navy. *§. 4.*

At the end of 28 days or more after the date of such declaration and order, the same, together with such certificate as is mentioned therein from the minister and churchwarden of the parish where such wife or mother shall reside, shall be presented to the treasurer of the navy, or other public officer to whom the same is addressed, who shall examine into the truth thereof, (upon the oath of such wife or mother, if necessary, which oath such officer is authorized to administer,) and upon his being satisfied, he shall immediately pay to such wife or mother the sum so allotted, without fee or deduction, taking her receipt for the same, and shall sign his name as witness thereto, and shall mark such receipt with the same number as that of her husband's declaration and order, and shall also mark thereon the sum paid, and the date, and the time from whence and up to what time the same so became due, and shall deliver back such declaration and order to such wife or mother; and shall also mark such triplicate in like manner; and at the end of every twenty-eight days afterwards upon similar application, a like payment shall be made in the same manner. *§. 5.*

And if the wife of any such person shall die and leave a child or children under 14, the minister and churchwarden where such wife resided at the time of her death shall certify to the commissioners of the navy the day of her death; and if children are left, the ages of those under 14, as near as they can, and how many are boys; and shall also certify their intention of appointing a fit person, resident within such parish, to receive that part of the father's wages allotted for the maintenance of his children, in case of his wife's death; and

Declarations and orders to be examined with lists by the navy board.

After 28 days from the dates, persons, to whom declarations and orders are addressed, to examine the same, and also certificates of ministers, &c.

and to pay the sum allotted gratis.

Wife dying, and leaving children under 14.

Three certificates and orders to be made out.

along with such certificate shall also transmit the triplicate of the declaration and order which was in her possession at the time of her death; and if the commissioners of the navy are satisfied of the truth thereof, and that the father is still alive, and in the service of his majesty, they shall make out three certificates and orders, which shall be triplicates of each other, in the following form;

Form.

No. I. *WE*, _____ the minister, and _____ churchwardens or churchwarden of the parish of _____ in the county of _____ do hereby certify and declare, That _____ wife of

_____ a { Petty officer,
Seaman,
Landman,
Non-commissioned
officer of marines,
Marine, } serving in his majesty's

navy, died on the _____ day of _____ and was buried in the said parish, where she had resided — { months } previous to her
years

death. And we further certify and declare, That there { is }
living in this parish { a child } under the age of fourteen
children years, of the aforesaid _____ late the husband of the aforesaid

_____ deceased { who is a boy, or girl } and we have appointed _____ of _____ in this parish, to receive such allowance as the aforesaid _____ the father has allotted out of his

wages or pay due or to become due for his service in the navy, for the maintenance and support of his said { child }
children in the event

of the death of his wife: And we request that you will give the necessary order, that the wages or pay of the father so allowed as aforesaid shall and may in future be paid to the said _____ for

the maintenance and support of the { child } of the said _____
children under our inspection and direction. Dated at _____ this _____ day of _____.

Signed

A. B.

Minister.

C. D.

E. F. }

Churchwardens.

To the commissioners of his Majesty's Navy.

WE, _____ and _____ two of his majesty's justices of the peace in and for the county of _____ do hereby certify and attest to the commissioners of his majesty's navy, That the facts set forth in the above certificate are true, to the best of our knowledge and belief, and that the said _____ named therein is a fit and proper person to receive the wages allotted by the above _____ the
for

the maintenance and support of his { child
children } in the event of the
death of his wife; and we do hereby approve of him in that re-
spect. Dated at — this — day of —

Signed G. H. } Justices of the peace for
I. K. } the county of —

London, the — day of —

WE approve of the above, and allow the same, and order the
payment of that part of the wages allotted by the above-mentioned

— for the maintenance and support of his { child
children }

in the event of the death of his wife, to be paid to the above-
named — for that purpose.

Signed L. M. } Commissioners of
N. O. } the Navy.
P. Q. }

To { the Treasurer of the Navy.
the Receiver General of the Land-tax of —
the Collector of the Customs at the port of —
the Collector of the Excise at —
the Clerk of the Cheque at —.

And shall send the same to the minister or churchwarden of
the parish where the wife died, who shall fill up the blanks
and sign the same, and having procured two justices of the
county wherein such parish lies to attest the same shall return
the said three triplicates to the commissioners of the navy, who
shall, on the receipt thereof, examine the same, and, if found
right, shall mark each of the triplicates with the same number
with which the original declaration and order was numbered;
and three of the said commissioners shall date and sign their
allowance thereof, and shall address each of them to the same
public officer to whom the original was addressed, who shall
transmit one of them to the person so appointed by such mi-
nister and churchwarden and approved by the justices, to-
gether with the original declaration and order which was
sent to them as aforesaid; and another thereof shall be trans-
mitted to the treasurer of the navy, or other public officer
appointed to pay the same, as the case may be; and the third
shall be delivered to the treasurer of the navy. *s. 6.*

To be sent to
the minister, &c.
and attested by
two justices.

At the end of 28 days or more from the last payment made
to the wife who so died as aforesaid, or from the date of the
original declaration and order in case she has received no pay-
ment thereon, the person so appointed may apply to such pub-
lic officer to whom the same is addressed for payment of what
may be due thereon, and shall then produce the original de-
claration and order, and the certificate of the minister and
churchwarden, and attestation by the justices, and allowance

Persons appoint-
ed to receive pay
for children,
may apply for
the same, pro-
duce certain
papers

by three commissioners as aforesaid; and shall also deliver a certificate from the minister and churchwarden, specifying that there is a child, or the number of children under 14 then living in their parish, distinguishing how many are boys, and their ages as near as they can, and shall in all things proceed in the same manner as before directed; and such payment shall be continued so long as all or any one of such children shall remain under 14, or the father shall live and continue in the king's service; except as hereinafter excepted, where no demand shall have been made within six months. *f. 7.*

Seamen, &c. on promotion may increase their pay to their families.

And if any such seaman, landman, or marine, shall be promoted, he may increase the allowance out of his pay to his wife, children, or mother, to the amount allowed to his rank as aforesaid; and the same rules and regulations shall be observed as before is directed and prescribed. *f. 8.*

Payments to be made for 28 days at a time, except in case of death, &c.

And all such payments as aforesaid shall be by even monthly payments of 28 days, and not for any part of a month, except in the event of the death of such wife, or death or discharge of the person serving, or his absenting himself, in which case the same shall be paid up to the day of such death or discharge, or his quitting the service. *f. 9.*

Orders to be irrevocable, except in certain cases.

Every such order so granted shall be irrevocable, and shall continue and remain in force during the whole time such person shall be entitled to wages, except revoked, or shall become void in manner herein-after mentioned. *f. 10.*

Wives, &c. to appear personally, unless disabled.

The wife or mother, or person appointed to receive such pay, shall appear personally to receive the same, unless disabled by bodily infirmity, the same to be certified by the minister and churchwarden where such person resides, or by the physician, surgeon, or apothecary attending her or him, in which case, the same shall be paid to her or his order in writing, upon producing the original order. *f. 11.*

Where the wife or mother returns to her place of residence.

[By 46 G. 3. c. 127. *f. 3.* In every case in which any petty officer, seaman, or landman, non-commissioned officer of marines, or marine, to whom any lot shall have been made payable, at or near the port where the ship or vessel to which he shall belong may have been at the time of making such allotment shall return to her friends, or to the parish, or place to which he shall belong, it shall be lawful for the commissioners of the navy, on receiving a certificate from the minister and churchwardens of the parish or place to which she shall remove, of her actual residence there, to alter the place of payment of her allotment accordingly.]

Wife dying, order is void, if demand is not made in six months.

Where no demand shall be made by virtue of any such original order for six calendar months after the date when signed by the commissioners of the navy, in the event of the death of the wife, the same shall be void. *f. 12.*

If any such regulating officer, or commander of any such vessel, shall unnecessarily neglect or delay to transmit to the navy-board such lists as aforesaid, or to transmit such declarations and orders as aforesaid, he shall forfeit 50*l.* to be recovered as penalties against the laws of customs or excise, and to be paid to the person suing or prosecuting for the same. *f.* 13.

Regulating officers, &c. neglecting to transmit lists.

If the person to whom any such order shall be addressed shall not have public money in his hand sufficient to answer the same, and shall refuse payment, he shall appoint a day, within 14 days, for the payment thereof. And if complaint shall be made to the said commissioners of any unnecessary delay in the payment of such allowance as aforesaid, or that any person employed herein hath taken any fee, or reward, three commissioners may fine any such offender not exceeding 50*l.*, to be recovered and applied in manner aforesaid. *f.* 14.

Persons to whom orders are addressed, not having money in hand.

Delaying payment, or taking fees.

If by any neglect or delay in making any such returns as aforesaid, any over-payment shall be made to any such wife, mother, or children, the same shall be deducted from the salary or pay of the officer or person making such default, and shall be applied in replacing the sum so overpaid. *f.* 15.

Over-payments to be made good by defaulters.

If any person who shall have allotted a part of his wages as aforesaid shall be desirous to revoke the same, he may do so upon his declaring such his intention, and actually revoking the same by a writing under his hand addressed to the commissioners of the navy, accompanied with a certificate from the minister and churchwarden of the parish where his wife shall reside, declaring that in their opinion such person has just and reasonable cause for such revocation; and if such commissioners shall be satisfied thereof, they shall give notice to the treasurer of the navy, or other public officer to whom the order of payment was addressed, directing him to stop all future payment thereon, until such person shall make another order of payment in manner aforesaid. *f.* 16.

Orders for payment to wives may be revoked on certificates from ministers, &c.

[By 46 G. 3. c. 127. If any petty officer, &c. who shall have made any allotment of pay under the 35 G. 3. c. 28. or who shall hereafter make any allotment, shall be desirous of revoking such, and shall signify his intention to his commanding officer and his reasons for so doing, such officer shall as soon as the same can conveniently be done, communicate such intention, and the reasons given for the same, to the commissioners of the navy, and if they shall be satisfied therewith, they may stop all future payments on any such allotment so revoked; and in every case in which it shall be represented to the commissioners by the ministers and churchwardens of the parish or place where any woman receiving any such allotment under the 35 G. 3. c. 28. or this act, shall reside, and

Revoking allotments by seamen, &c.

Wives behaving improperly.

whose husband shall be then serving abroad, that she has conducted herself in such a manner as to be undeserving of support from her husband, they may withhold any further payment on any such allotment.

And by §. 7. of the same act, the commissioners may direct the treasurer of the navy, &c. &c. by whom any allotment made conformable to the said former act or to this, shall be payable, from time to time, and as often as the pay of any such petty officer, &c. shall have been increased by any order of his majesty in council, to increase the allowance in the payments which he may thereafter make to the wife or mother of any such petty officer, &c. to a proportion equal in the whole to one-half of the pay of every such petty officer, &c. at the respective times of the making of such payments, and in the same manner as if such declaration and order of allotment had been originally made according to the rate of half the pay of every such petty officer, &c. at the respective times of such payments.]

If wives desert their children, on a certificate from the minister, &c. other persons may be appointed.

If any such wife as aforesaid shall desert or otherwise neglect and leave unsupported and maintained any such child under 14, and who shall for one month become chargeable to any parish, the minister and churchwarden of such parish may certify the fact to the commissioners of the navy, and also their intention to appoint a proper person to receive, and apply to the use of such child, the pay so allowed for the support of her and such child; and if such commissioners be satisfied therewith, they shall proceed to appoint a proper person to receive such pay in the same manner as if such wife had died. §. 17.

Navy board to communicate the death of persons who have allotted part of their pay to the person directed to pay it, on penalty of 20l.

And as soon as it shall appear to the commissioners of the navy that any person who has allotted a part of his pay as aforesaid is dead, or has quitted the king's service, they shall communicate the same to such public officer as aforesaid, by whom such allotment of wages was directed to be paid, directing him to stop all future payments; and such public officer shall, within two days after the receipt thereof acknowledge such receipt by letter to the said commissioners, on the penalty of 20l. to be levied as aforesaid. §. 18.

Minister, &c. to give notice of the death of wives or mothers receiving pay to the navy-board.

As soon as it shall come to the knowledge of the minister or any churchwarden of any parish that the wife or mother of any person receiving such allowance as aforesaid is dead, they or one of them shall immediately give notice thereof by letter to the commissioners of the navy, or other public officer from whom she received such allowance, who shall not make any further payment until he receive further directions from the commissioners of the navy thereon. §. 19.

Paymen is to be made without deduction, on penalty of 20l.

And all allotments of wages to be paid in pursuance of this act shall be fully paid, without deduction, although a part thereof be in fractions of the smallest denomination; and

every person withholding any part thereof under any pretence whatsoever shall forfeit 20l., to be recovered and applied in manner aforesaid. *f. 25.*

All letters or packers sent by the cashier of the navy, or forwarded by him in the execution of this act, shall be under covers, with the words PURSUANT TO ACT OF PARLIAMENT, THIRTY FIFTH GEORGE THE THIRD, printed thereon, and he shall write his name under the same. And if he shall send under any such cover any writing, paper, or parcel, other than those relating to the execution of this act, he shall forfeit 100l.; to be recovered and applied in manner aforesaid. *f. 26, 27.*

Letters to be free of postage.

Penalty of sending other things under such covers.

And if any person shall make, forge, or counterfeit, any such declaration or order, or any certificate or receipt hereinbefore described or mentioned, or publish the same in order to enable any person to obtain any such wages so allotted as aforesaid, he shall be guilty of felony without benefit of clergy. *f. 30.*

Forging orders for payment, &c.

[Note; the law relating to the recovery of such wages, so far as provision is made for the same by any act of parliament, is treated of under the title *Servants*.]

Of seamen begging, see 43 G. 3. c. 61. title *Vagrants*.

For apprentices to the sea-service, see the title *Apprentices*.

Search Warrant.

ALTHOUGH it hath been usual for justices to grant general warrants, to search all suspected places for stolen goods, and there is a precedent in *Dalton* requiring the constable to search *all suspected places as he and the party complaining shall think convenient*, yet such practice is generally condemned by the best authorities.

General warrants condemned.

Thus *L. Hale*, in his *Pleas of the Crown*, says, a general warrant to search for felonies or stolen goods, is not good. *H. Pl. 93.*

Mr. Hawkins says, I do not find any good authority, that a justice can justify sending a general warrant to search all suspected houses in general for stolen goods; because such warrant seems to be illegal on the very face of it; for it would be extremely hard to leave it to the discretion of a common officer to arrest what persons, and search what houses he thinks fit: and if a justice cannot legally grant a blank warrant for the arrest of a single person, leaving it to the party to fill up, surely he cannot grant such general warrant, which might have the effect of an hundred blank warrants. *2 Haw. 82. 84.*

Search Warrant.

Again, *L. Hale*, in his History of the Pleas of the Crown, expresseth himself thus; I do take it, that a general warrant to search in all suspected places is not good; but only to search in such particular places, where the party assigns before the justice his suspicion, and the probable cause thereof; for these warrants are judicial acts, and must be granted upon examination of the fact. 2 *H. H.* 150.

And therefore he says, he takes it, that those general warrants dormant, which are many times made before any felony committed, are not justifiable, for it makes the party to be in effect the judge; and therefore searches made by pretence of such general warrants give no more power to the officer or party than what they may do by law without them. *Id.*

House not to be broken open upon bare surmise.

Likewise, upon a *bare surmise*, a justice cannot make a warrant to break any man's house, to search for a felon, or for stolen goods; for the justices being created by act of parliament have no such authority granted to them by any act of parliament; and it would be full of inconvenience that it should be in the power of any justice of the peace, being a judge of record, upon a bare suggestion to break the house of any person, of what state, quality, or degree soever, either in the day or night, upon such surmises. 4 *Inst.* 177.

But may on oath of suspicion.

But in case of a complaint, and oath made, of goods stolen, and that the party suspects that goods are in such house, and shews the cause of his suspicion, the justice may grant a warrant to search in those suspected places mentioned in his warrant, and to attach the goods, and the party in whose custody they are found, and bring them before him, or some other justice, to give an account how he came by them, and farther to abide such order as to law shall appertain. 2 *H. H.* 113. 150.

Better to search in the day-time.

By 22 *G. 3. c. 58.* On complaint made on oath before one justice, that there is reason to suspect that stolen goods are knowingly concealed in any house or place, he may by his warrant cause such house or place to be searched in the day time; and the person knowingly concealing such stolen goods, or in whose custody the same shall be found, he being privy thereto, shall be deemed guilty of a misdemeanor, and may be brought before any justice; and on conviction, may be punished by fine, imprisonment, or whipping, as the quarter-sessions, (who are empowered to try such offenders,) or any other court before whom he shall be tried, shall think fit to inflict. *f.* 1, 2.

L. Hale says, it is convenient that these warrants do require the search to be made in the day time; and though I will not affirm (says he) that they are unlawful without such restriction, yet they are very inconvenient without it; for many times, under pretence of searches made in the night, robberies

ries and burglaries have been committed; and at best it creates great disturbances. 2 H. H. 150.

But in case not of probable suspicion only, but of positive proof thereof, it is right to execute the warrant in the night-time, lest the offenders and goods also be gone before morning. *Barl. Search War.*

May be in the night.

Furthermore, such warrant ought to be directed to the constable, or other public officer, and not to any private person; though it is fit the party complaining should be present and assistant, because he knows his goods. 2 H. H. 150.

Warrant to be directed to the constable.

So much for *granting* a search warrant; next touching the *execution* of it.

Whether the stolen goods are in a suspected house or not, the officer and his assistants in the day-time may enter, the doors being open, to make search, and it is justifiable by the warrant. 2 H. H. 151.

To enter, the doors being open.

If the door be shut, and upon demand it be refused to be opened by them within, if the stolen goods be in the house, the officer may break open the door. *Id.*

The doors being shut.

If the goods be not in the house, yet it seems the officer is excused that breaks open the door to search, because he searched by warrant, and could not know whether the goods were there till search made: but it seems that the party that made the suggestion is punishable in such case; for as to him the breaking of the door is *in eventu* lawful or unlawful, to wit, lawful if the goods are there; unlawful if not there. *Id.*

Whether the goods are found or not.

And every constable within his constablewick, beadle within his ward, and watchman while on duty, may apprehend any person, who may be reasonably suspected of having or carrying at any time after sun-setting and before sun-rising any goods suspected to be stolen, and carry him before a justice, to be dealt with according to law; and on conviction of the offence, he shall be adjudged guilty of a misdemeanor, and imprisoned not exceeding six nor less than three calendar months. 22 G. 3. c. 58. s. 3.

Carrying suspected goods in the night.

On the *return* of the warrant executed, the justice hath these things to do.

Return of the warrant.

As touching the *goods* brought before him, if it appear they were not stolen, they are to be restored to the possessor; if it appear they were stolen, they are not to be delivered to the proprietor, but deposited in the hand of the sheriff or constable, to the end the party robbed may proceed, by indicting and convicting the offender, to have restitution. 2 H. H. 151.

Goods how to be disposed of.

As touching the *party* that had the custody of the goods; if they were not stolen, then he is to be discharged; if stolen, but not by him, but by another that sold or delivered them to him, if it appear that he was ignorant that they were stolen,

Party how to be disposed of.

Search Warrant.

stolen, he may be discharged as an offender, and bound over to give evidence as a witness against him that sold them; if it appear he was knowing they were stolen, he must be committed or bound over to answer the felony. 2 H. H. 152.

Form of a search warrant.

Westmorland. } To the constable of ———

WHEREAS it appears to me J. P. esquire, one of the justices of our lord the king, assigned to keep the peace in the said county, by the information on oath of A. I. of ——— in the county aforesaid, yeoman, that the following goods, to wit, ——— have, within ——— days last past, by some person or persons unknown, been feloniously taken, stolen, and carried away, out of the house of the said A. I. at ——— aforesaid, in the county aforesaid; and that the said A. I. hath probable cause to suspect, and doth suspect, that the said goods or part thereof, are concealed in the dwelling house of A. O. of ——— in the said county, yeoman; these are therefore, in the name of our said lord the king, to authorize and require you, with necessary and proper assistants, to enter in the day time into the said dwelling house of the said A. O. at ——— aforesaid, in the county aforesaid, and there diligently to search for the said goods; and if the same, or any part thereof, shall be found upon such search, that you bring the goods so found, and also the body of the said A. O. before me, or some other of the justices of our said lord the king, assigned to keep the peace in the county aforesaid, to be disposed of and dealt withal according to law. Given under my hand and seal at ——— in the said county, the ——— day of ——— in the ——— year of the reign of ———

Seditious meetings. See Riot, rout, &c.

Self defence. See Homicide.

Self murder. See Homicide.

Servants.

Under this title are also comprehended labourers, journey-men, artificers, and other workmen.

Concerning the settlement of servants, see title Poor.

Sect. I. Who may be compelled to serve, and for what term

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[5 El. c. 4. s. 3. to 9. s. 24, 39, 45.]

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Sect. II. *Characters of servants* - Page 208
[32 G. 3. c. 56.]

III. *Rating of wages* -
[5 El. c. 4. f. 15, 17, 18, 19, 20, 37, 38.—
1 J. c. 6. f. 3, 5, 6, 7, 8, 9.]

IV. *Time of working for labourers* -
[5 El. c. 4. f. 12, 13.]

V. *Working in harvest* -
[5 El. c. 4. f. 22, 23.—13 & 14 C. 2.
c. 12. f. 3.]

VI. *Testimonial* -
[5 El. c. 4. f. 10, 11.]

VII. *Servant fleeing into another shire* -
[5 El. c. 4. f. 47.—24 G. 2. c. 55.]

VIII. *Servant assaulting his master* -
[5 El. c. 4. f. 31.]

IX. *How far the master is allowed to beat his servant* -

X. *How far the master may beat another in defence of his servant, or the servant in defence of his master* -

XI. *Servants firing houses* -
[6 An. c. 31. f. 3.—14 G. 3. c. 78. f. 6. 84.]

XII. *Servant stealing his master's goods* -
[33 H. 6. c. 1.—21 H. 8. c. 3. 7.—12 An.
ft. 1. c. 7.—39 G. 3. c. 85. f. 1.]

XIII. *Disputes between silk masters and their workmen* -
[13 & 14 C. 2. c. 15. f. 6, 7.—20 C. 2. c. 6.
—8 & 9 W. c. 36.—13 G. 3. c. 68.—
22 G. 3. c. 40. f. 2.—32 G. 3. c. 44. f. 1,
2, 3, 4, 5.]

XIV. *Disputes between clothiers and their workmen, by divers statutes* -
[4 Ed. 4. c. 1. f. 5, 6.—7 J. c. 7. f. 4.—
10 An. c. 16. f. 6, 7, 8, 9.—1 G. ft. 2.
c. 15. f. 7, 8, 12.—13 G. ft. 2. c. 15. f. 1,
2, 4, 6, 7, 9.—29 G. 2. c. 33.—30 G. 2.
c. 12.—14 G. 3. c. 25. f. 1 to 10. 22 G. 3.
c. 40. f. 1.]

XV. *Disputes between masters and servants in the woollen, linen, fustian, cotton, and iron*

- iron manufactures ; by the 1 An. ft. 2. c. 18. & 13 G. 2. c. 8.
 [1 An. ft. 2. c. 18. f. 1, 2, 3, 4.—13 G. 2. c. 8. f. 2, 3.]
- Sec. XVI.** *Disputes between masters and their workmen, in the leathern manufactures ; by the 13 G. 2. c. 8.*
 [13 G. 2. c. 8. f. 4 to 9.]
- XVII.** *Disputes between masters and their workmen, in the making of hats, or in the woollen, linen, fustian, cotton, iron, leather, furr, hemp, flax, mohair, or silk manufactures ; by the 22 G. 2. c. 27. and other statutes*
 [22 G. 2. c. 27. f. 1, 2, 12.—14 G. 3. c. 44. f. 2, 3, 5.—15 G. 3. c. 14.—17 G. 3. c. 11.—17 G. 3. c. 55.—22 G. 3. c. 40. f. 3.—39 & 40 G. 3. c. 90.—44 G. 3. c. 87.]
- XVIII.** *Disputes between masters and their workmen, in the bone and thread lace manufactory ; by the 19 G. 3. c. 49.*
 [19 G. 3. c. 49. f. 1, 2, 3, 4.]
- XIX.** *Disputes between masters and their workmen, in the manufactures of clocks and watches ; by the 27 G. 2. c. 7.*
 [27 G. 2. c. 7.]
- XX.** *Disputes between paper makers and their workmen*
 [36 G. 3. c. 111.]
- XXI.** *Disputes between masters and servants in husbandry, artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers ; by the 20 G. 2. c. 19. & 6 G. 3. c. 25.*
 [20 G. 2. c. 19.—31 G. 2. c. 11.—6 G. 3. c. 25. f. 3, 4.]
- XXII.** *Shipmasters and their seamen*
 [2 G. 2. c. 36. f. 3 to 9.—31 G. 3. c. 39. f. 1 to 6. f. 8.]
- XXIII.** *Taylors and their workmen within the bills*
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Sect. XXIV. <i>Shoemakers and their workmen within the bills</i>	
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XXV. <i>How far the master is answerable for the servant</i>	
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XXIV. <i>Combinations amongst workmen.</i>	
[39 & 40 G. 3. c. 106.]	

I. Who may be compelled to serve, and for what term.

NO person shall retain or be retained, to work for any less term than one whole year, in any of the crafts of clothiers, woollen cloth weavers, tuckers, fullers, cloth-workers, shermen, dyers, hosiers, taylor, shoemakers, tanners, pewterers, bakers, brewers, glovers, cutlers, smiths, farriers, curriers, saddlers, spurriers, turners, cappers, hat-makers, or feltmakers, bowyers, fletchers, arrow-head-makers, butchers, cooks, or millers. *5 El. c. 4. s. 3.*

Who are compellable to serve in trades.

Every person unmarried, and every married person being under the age of 30 years, and having been brought up in any of the said trades, or that hath used any of them by the space of three years or more, and not having an estate of inheritance or for life of 40s. a year, nor worth 10l. in goods, and so allowed by two justices of the county where he hath most commonly inhabited for one year under their hands and seals, or by the mayor of a town corporate and two aldermen, or, (if there are no aldermen) two discreet burgesses, nor being retained with any person in husbandry, nor in any of the aforesaid trades, nor being lawfully retained in household, or in any office with any nobleman, gentleman, or other according to law, nor having a convenient farm or other holding in tillage;—shall during the time that he shall be so unmarried, or under the said age of 30 years, on request made by any person using the art and mystery wherein the said person hath been exercised, be retained and serve, on pain as hereafter followeth. *s. 4.*

And no person which shall retain any servant shall put away his said servant, and no person retained according to this statute shall depart before the end of his term, unless it be for some reasonable cause, to be allowed before one justice or mayor to whom the party grieved shall complain: and no master shall put away any such servant at the end of his term, nor shall any such servant depart at the end of his term, without one quarter's warning, on pain hereafter ensuing. *s. 5, 6.*

A quarter's warning to be given.

Every person between the age of 12 and 60, not being lawfully

Who are compellable to serve in husbandry.

lawfully retained, nor apprentice with any fisherman or mariner, haunting the seas; nor being in service with any kiddy or carrier of corn, grain, or meal, for provision of the city of *London*; nor with any husbandman in husbandry; nor in any city, town corporate, or market town, in any of the arts limited by this statute to have apprentices; nor being retained by the year, or half year at least, for getting, melting, fining, working, trying, making of any silver, tin, lead, iron, copper, stone, sea coal, stone coal, moor coal, or cherk coal; nor being occupied in the making of glass; nor being a gentleman born; nor being a student or scholar in any of the universities, or school; nor having an estate of inheritance, or for term of life, of 40s. a year; nor worth 10l. in goods; nor having a father and mother then living, or other ancestor, whose heir apparent he is, having lands of 10l. a year, or goods worth 40l. nor being a necessary or convenient officer or servant lawfully retained as aforesaid; nor having a convenient farm or holding, whereon to employ his labour; nor being otherwise lawfully retained according to the true meaning of this statute—shall be compelled to be retained to serve in husbandry by the year with any person that keepeth husbandry, and will require any such person to serve, within the same shire where he shall be so required. *f. 7.*

Penalty on putting away a servant without a quarter's warning.

If any person, after he hath retained any servant, shall put him away before the end of his term, unless it be for some reasonable cause, to be allowed as is aforesaid; or shall put him away at the end of his term without a quarter's warning; unless he can prove by two witnesses such reasonable cause, or such quarter's warning, before the judges of assize, justices of the peace in sessions, or the mayor and two aldermen (or two discreet burgessees if there are no alderman) in corporation,—he shall forfeit 40s. *f. 8.*

Penalties.

If any servant retained according to this statute shall depart from his service before the end of his term, unless it be for some reasonable cause to be allowed as aforesaid, or at the end of his term depart without a quarter's warning before two witnesses; or if any person bound to serve in husbandry or other arts above-remembered, by the year or otherwise, do on request refuse to serve for the wages to be limited by this statute; or promise to leave, and do not serve—then on complaint and conviction before two justices, or mayor and two aldermen, (or two discreet burgessees where there are no aldermen,) he shall be committed to ward until he shall be bound to serve and continue for the wages that shall be then limited; and to be discharged upon his delivery, without any fee to the gaoler. *f. 9.*

Application thereof.

The forfeitures not otherwise appointed by this act shall be half

half to the king, and half to him that shall sue in any of the king's courts of record, or before the justices of oyer and terminer, or before any other justice before remembered; and the said justices, or two of them (1 *Q.*) and the said mayors or other head officers, shall have power to hear and determine all offences against this statute, as well upon indictment in the sessions of the peace, as upon information, action of debt, or bill of complaint; and shall yearly in *Michaelmas* term estreat the forfeitures into the exchequer, in like manner as other estreats. *f. 39.*

And all fines and forfeitures which shall arise by reason of any offence in this act, within any city or town corporate, shall be levied by such person as shall be appointed by the mayor or other head officer, to the use of the same city or town corporate, as other fines and forfeitures by the charter. *f. 45.*

Two justices (or the mayor or other head officer of a town corporate, and two aldermen, or two discreet burghesses if there be no aldermen) may appoint any such woman as is of the age of 12 years, and under 40, and unmarried, and forth of service, as they shall think meet to serve, or be retained to serve by the year, or by the week or day, for such wages, and in such reasonable sort and manner as they shall think meet; and if any such woman shall refuse so to serve, they may commit her to ward, until she shall be bounden to serve as is aforesaid. *5 El. c. 4. f. 24.*

Women compellable to serve.

If a woman who is a servant shall marry, yet she must serve out her time, and her husband cannot take her out of her master's service. *Dalt. c. 58. Wood's Inst. b. 1. c. 6.*

Women marrying.

If a person retain a servant generally, without expressing any time, the law shall construe it to be for one year, for that retainer is according to law. *2 Inst. 42. Bur. S. C. 290, 513.*

Retainer to be for a year.

And if a man retaineth another, except the retainer be according to the statute, it seemeth to be void; unless it be by indenture, and then being by deed, he is bound by his covenant. *Dalt. Old. Ed. c. 31.*

By the retainer, the servant is in service presently by the law, although he cometh not into his master's service in deed: for the retainer is the proper inchoation of the service. *Bro. Labours, pl. 9. c. 11. Dalt. c. 58.*

Retainer in the beginning of service.

If a servant be within age, his agreement with his master to his disadvantage shall not prejudice him. *Id.* But if it be to his advantage, it is good in law.

Infant hiring.

If a married man and his wife do bind themselves to serve, they shall not be compelled to serve according to their covenant or agreement. *Id.*

Married person hiring.

If a servant retained for a year happen within the time of his

Servant falling sick.

his service to fall sick, or to be hurt or disabled by the act of God, or in doing his master's business, yet the master must not therefore put such servant away, nor abate any part of his wages for such time. *Id.*

II. Characters of servants.

The 32 G. 3. c. 56. after reciting that false and counterfeit characters of servants have either been given personally or in writing by evil-disposed persons, contrary to truth, and to the peace and security of his majesty's subjects, enacts that if any person shall falsely personate any master or mistress, or the executor, administrator, wife, relation, housekeeper, steward, agent or servant of any such master or mistress, and shall, either personally or in writing, give any false forged or counterfeited character of any person offering to hire; every such person so offending shall forfeit 20l. *s. 1. 6.*

If any person shall knowingly and wilfully pretend or falsely assert in writing that any servant has been hired or retained for any time, or in any capacity whatsoever, other than that for which he was hired or retained, or for the service of any other person; or that any servant was discharged or left his service at any other time than that at which he was discharged or actually left such service; or that any such servant had not been hired or employed in any previous service, contrary to truth; or if any person shall offer himself as a servant, pretending that he hath served in any service in which he hath not actually served, or with a false forged or counterfeit certificate of his character; or shall in anywise add to, or alter, efface, or erase any word, date, matter, or thing contained in or referred to in any certificate given to him by any former master, or other person authorized by such master; or having before been in service; shall, when offering to hire as a servant, falsely and wilfully pretend not to have been hired or retained in any previous service; he shall, for every such offence, forfeit 20l. *s. 2, 3, 4, 5, 6.*

All which penalties aforesaid may be recovered before two justices, on conviction, either on confession, or the oath of one witness; half to the informer, and half to the poor: and if such offender shall not immediately pay the same, together with 10s. for the costs attending such conviction, or shall not give notice of appeal and enter into recognizance in manner herein-after mentioned, such justices shall commit him to the house of correction, or other prison, there to remain and be kept to hard labour, without bail, for any time not exceeding three nor less than one month, or until he pay the sum so forfeited, together with such costs as aforesaid. *s. 6.*

And

Personating a master, or giving a false character, &c.

Penalties how to be recovered.

And such informer shall be deemed a competent witness, notwithstanding he is entitled to a part of the penalty. *f. 7.*

Informer may be a witness.

Provided, that if any servant who shall have been guilty of any of the offences aforesaid shall, before any information has been lodged against him, inform against any person concerned with him in any offence against this act, so as such offender be convicted thereof, such servant shall thereupon be discharged from all penalties and punishments to which at the time of such information given, he might be liable. *f. 8.*

Accomplice informing.

And the conviction may be drawn up in the following form, or to the same effect, (*viz.*)

Conviction.

Be it remembered, That on the ——— day of ——— in the year of our Lord ——— A. O. is convicted before us J. P. and C. P. two of his majesty's justices of the peace for the county of ———. [Here specify the offence, and the time and place when and where committed.] Given, &c.

And any person who may think himself aggrieved may appeal to the next sessions, upon entering into a recognizance with two sureties in 20l. each to try such appeal, and abide the order of and pay such costs as shall be awarded at such sessions; and on proof of such notice and recognizance the justices shall hear and finally determine such appeal in a summary way, and award such costs to either party as they shall think proper, which shall be binding and conclusive to all intents and purposes; and no such conviction, order, or other proceeding as aforesaid, shall be quashed for want of form, or removed by *certiorari* into any other court. *f. 10.*

Appeal.

Determination to be final.

In an action on the case, the declaration stated that the plaintiff's wife having been retained by the defendant as a servant was dismissed from the said service; that after she was so dismissed she had applied to a person of the name of *Stewart* for the purpose of being retained and hired as a servant; that *Mrs. Stewart* was ready and willing to have hired and taken her into her service, if the defendant would have given her a character, and such character was satisfactory; that it was the duty of the defendant by law to have given her such character as she deserved; and then assigned a breach, that the defendant not regarding such her duty wholly refused to give her any character whatever; by reason whereof the said *Mrs. Stewart* refused to hire her into her said service. Plea of not guilty. — On opening the pleadings, *L. Kenyon*, addressing himself to the plaintiff's counsel, said, can you make any thing of this action? I have read an abstract of the records; it is impossible to support this action? Upon the plaintiff's counsel replying, that he had no case; his lordship proceeded to observe, there is no case; there is no foundation in law for this action. What one's real feeling would dictate is one thing; but can you say

A master is not bound to give a servant a character.

that there is a legal obligation on one to give a servant a character at all? You are, indeed, to take care, if you do give a character, to give a true one, but you are not bound to give a character at all. I am confident that this action cannot be maintained. *Carrol v. Bird. Sitt. at Westminster, after T. T. 40 G. 3. 3 Esp. R. 201. and see Ashover v. Brampton. Cald. Cas. 11. post.*

And when a master gives a bad character of a servant, the latter cannot maintain an action against the former for defamation, unless the account given be malicious as well as false. *Bull. N. P. 8.*

Even though the master make specific charges of fraud. *T. R. 110.*

III. Rating of wages.

Rating of wages:

The justices of every shire, riding, and liberty, or the more part of them, being then resident within the same, and the sheriff, if he conveniently may, and every mayor and other head officer within any city or town corporate, wherein is any justice of the peace within the limits of the said city or town corporate, and of the said corporation, shall yearly in *Easter* sessions, or within six weeks next after, assemble and call unto them such discreet and grave persons as they shall think meet, and having respect to the plenty or scarcity of the time and other circumstances, shall have authority to limit rate and appoint the wages as well of such the said artificers, handicraftsmen, husbandmen, or any other labourer, servant, or workmen, whose wages in times past have been by any law or statute rated and appointed, as also the wages of all other labourers, artificers, workmen, or apprentices of husbandry, which have not been rated, as they shall think meet by their discretions, to be rated, limited, or appointed by the year, or by the day, week, month, or otherwise, with meat and drink, or without meat and drink, and what wages every workman or labourer shall take by the great for mowing, reaping, or threshing of corn and grain, or for mowing or making of hay, or for ditching, paving, railing, or hedging, by the rod, perch, lugg, yard, pole, rope, or foot, and for any other kind of reasonable labour or service. *5 El. c. 4. §. 15.*

By the *17. c. 6.* The justices, or the more part of them, resident in any riding, liberty, or division, where the sessions are severally kept, shall have power to rate the wages within such divisions, as if the same were done in the general sessions for the county. *§. 5.*

And by the said statute of *17. c. 6.* The said act of *5 El.* shall extend to the rating of wages of all labourers, weavers, spinsters,

spinsters, and workmen or workwomen, whatsoever, either working by the day, week, month, year, or taking any work by the great or otherwise. *f. 3.*

But no clothier being a justice of the peace in any precinct or liberty shall be a rater of wages for the making of cloth; and if there be not above two justices in such precinct, but such as are clothiers, the wages shall be rated by the major part of the common council of such precinct, and such justices (if any there be) as are not clothiers. *Id. f. 9.*

If any justice resident within the county, or mayor, shall be absent at the rating of wages, and not hindered by sickness or other lawful cause to be allowed by the justices then assembled for rating of wages, upon the oath and affidavit of some credible person, he shall forfeit to the king 10*l.* to be recovered in the sessions or other court of record, by indictment or otherwise, *5 El. c. 4. f. 17.*

And the justices shall yearly, between *Sept. 29.* and *Dec. 25.* and between *March 25.* and *June 24.* make special and diligent enquiry of the good execution of this statute, and punish defaulters; and shall have for every day that they sit about the execution thereof (not exceeding three days at a time) 5*s.* each out of the forfeiture due to the king. *f. 37, 38.*

By the aforesaid act of *5 El.* the rates were to be certified into the chancery; but by the *17. c. 6.* they need not to be certified into the chancery, but shall be kept amongst the records of the county or town corporate. *f. 8.*

Rates to be kept among the records;

And after the said rates are made and ingrossed in parchment under the hands and seals of the persons having authority to rate the same, the sheriff or mayor may cause proclamation thereof to be made in so many places as to them shall seem convenient, and every person shall be bound to observe the same. *Id. f. 6.*

And proclaimed;

If any person upon the proclamation published shall directly or indirectly retain or keep any servant, workman, or labourer, or shall give any more or greater wages, or other commodity, than shall be so appointed in the said proclamation; he shall on conviction before any of the justices or other beat officers above remembered be imprisoned for ten days without bail, and shall forfeit 5*l.* half to the king, and half to him that shall sue before the said justices in their sessions. *5 El. c. 4. f. 18.*

Giving more wages than is rated.

But yet masters may reward a well-deserving servant over and above his wages, according as he shall deserve, so it be not by way of promise or agreement upon his retainer. *Dalt. c. 58.*

Taking more.

And every person that shall be so retained and take wages contrary to the said statute of the *5 El.* or to the said proclamation, and shall be thereof convicted before the justices

aforesaid or any two of them, or before the mayor or other head officers aforesaid, shall be imprisoned for 21 days without bail. 5 *El. c. 4. s. 19.*

Contract, to the contrary void.

Every retainer, promise, gift, or payment of wages, or other thing contrary to the said act, and every writing and bond to be made for that purpose, shall be void. *s. 20.*

Paying less than is rated.

If any clothier, or other, shall refuse to pay so much wages to their weavers, spinsters, workmen, or workwomen, as shall be rated, and be convicted thereof by confession, or oath of two witnesses, at the assizes, or sessions, or before any two justices (1 *Q.*); he shall forfeit 10s. to the party grieved, to be levied by distress and sale. 1 *J. c. 6. s. 7.*

Ordering the payment of wages.

M. 1 An. Q. v. Gouche. An order was made by the justices for payment of wages, for work and labour in husbandry: the exception was that it did not appear to be statute wages, and such only are within their jurisdiction. By the court: Though the statute gives them a power only to set the rate for wages, and not to order payment, yet grafting hereupon, they have also taken upon them to order payment, and the courts of law are indulgent in remedies for wages, and therefore they would intend it such wages as were within the statute, unless the contrary appear upon the face of the order. 2 *Salk. 441.*

And in the case of *R. v. Gregory*, 2 *Salk. 484.* There was an order to pay 40s. for wages generally; and because it was not said for wages in husbandry, it was moved to quash it, for that the justices can only settle wages in husbandry.— But by the court; we will intend it for such wages, since the contrary doth not appear.

But in *R. v. Helling*, *M. 3 G.* This was an indictment for not paying servants wages, reciting an order of two justices, whereby it appeared that 9l. was due, which the defendant refused to pay, having had notice of the order. It was moved to quash the indictment, because it doth not set out the labour of the servant, and is only generally for wages; the justices have only jurisdiction in cases of husbandry; and the order ought to shew that this was a matter within their jurisdiction. By *Eyre J.* the practice is, if an order be for paying wages, it is supposed to be such as the justices have power over. But *Parker Ch. J.* and *Pratt J.* were of another opinion. And in the next term following the indictment was quashed. 1 *Str. 8.*

And in *R. v. Clegg*, *M. 8 G.* it was said by *Fortesque J.* that in the case of servants wages, although jurisdiction is given only in husbandry, yet orders have been held good, where it did not appear that the service was in husbandry; for the court said they would intend it so, unless the contrary appeared. But by *Pratt Ch. J.* This was always wondered at,

at, and in my *L. Parker's* time it was actually contradicted in the case of *R. and Helling*. 1 *Str.* 475.

In *Bycraft's* case, 5 *Mod.* 140. A justice made an order for payment of a seaman's wages; but, in an action brought against him, the plaintiff recovered 30 l. damages.

M. 8 An. Q. v. Cecil. An order upon a master to pay wages in husbandry was quashed, because it was made upon a servant's oath, which is against law, and no power given in the statute to admit such oath as evidence. 2 *L. Raym.* 1305.

But by other statutes hereafter following, such oath is allowed as evidence: but upon this statute it was not necessary, because in order to entitle the servant to wages he needed not to prove how much his master had agreed to pay him, for that was fixed by the justices, but only how long he had served, and then the wages followed of course; and this might be proved by many others as well as by himself.

IV. *The time of working for labourers; and their continuance to work.*

All artificers and labourers, being hired for wages by the day or week, shall, betwixt the midst of *March* and midst of *September*, be and continue at their work from five in the morning till after seven at night (except in the time of breakfast, dinner, or drinking, which shall not exceed two hours and an half in a day, that is to say, at every drinking, one half hour, for his dinner one hour, and for his sleep, when he is allowed to sleep, that is, from the midst of *May* to the midst of *August*, half an hour at the most, and at every breakfast one half hour): And all the artificers and labourers between the midst of *September* and the midst of *March* shall be and continue at their work, from the spring of the day in the morning until night, except it be in the time before appointed for breakfast and dinner; on pain to forfeit 1d. for every hour's absence, to be deducted out of their wages. 5 *El. c. 4. f. 12.*

And every artificer and labourer lawfully retained in building or repairing any church, house, ship, mill, or other piece of work taken in great, in task, or in gross, or who shall take upon him to make or finish any such thing or work, shall continue and not depart therefrom (unless for non-payment of the wages or hire agreed on, or appointed to serve the king, or other lawful cause, or without license from the master or owner of the work, or of him that hath the charge thereof,) before the finishing thereof, on pain of imprisonment by one month, without bail, and forfeiture of 5l. to the party from whom he shall so depart, recoverable by action of debt in any court of record; besides such ordinary

Costs and damages as may be recovered by the common laws for any such offence. *f. 13.*

V. *Working in harvest.*

Artificers, &c.
to work in har-
vest.

In the time of hay or corn harvest the justices of the peace, and every of them, and also the constable or other head officer of every township, upon request, and for avoiding of the loss of any corn, grain, or hay, shall cause all such artificers and persons as be meet to labour, by the discretions of the said justices or constables, or other head officers, or by any of them, to serve by the day, for the mowing, reaping, shearing, getting or inning of corn, grain, and hay, according to the skill and quality of the person; and that none of the said persons shall refuse to do, on pain to suffer imprisonment in the stocks, by the space of two days and one night; and the constable of the town, or other head officer, on complaint to him made, shall set him in the stocks accordingly, on pain of 40s. half to the king, and half to him that shall sue in the sessions, or other court or record; and if it is in a town corporate, then to the use of such town, as other fines by the charter. *5 El. c. 4. f. 22.*

Persons may go
in harvest into
other counties.

Provided, that all persons of the counties where they have accustomed to go into other shires for harvest work, and having at that time no harvest work sufficient in the same town or county where they dwelt in the winter last past, bringing with them a testimonial under the hand and seal of one justice of the shire, or other head officer of the town or place they come from, testifying the same, (for which he shall pay not above 1d. (other than such persons as shall be retained in service) may repair in harvest of hay, or corn, into any other county or place for the only mowing, reaping, and getting of hay, corn, or grain, and for the only working of harvest work, as they might have done before the making of this act. *f. 23.*

By the 13 & 14 C. 2. c. 12. A person may go abroad to work in harvest, carrying with him a certificate from the minister and one churchwarden or overseer, that he hath a dwelling house or place in which he inhabits, and hath left wife and children, or some of them there, (or otherwise as his condition shall require,) and declaring him an inhabitant there. *f. 3.*

Not to be deemed
vagrants.

And by the vagrant act of the 17 G. 2. Persons carrying with them such certificate shall not be liable to be apprehended as vagrants.

VI. *Testimonial.*

Not to depart
without a tes-
timonial.

None of the said persons retained in husbandry, or in any
the

the arts above remembered, after the time of his retainer expired, shall depart forth of one city, town, or parish, to another; nor out of the lathe, rape, wapentake, or hundred; nor out of the county where he last served, to serve in any other city, town corporate, lathe, rape, wapentake, hundred, or county; unless he have a testimonial under the seal of the said city or town corporate, or of the constable or other head officer, and of two other honest householders of the city, town, or parish, where he last served. Which testimonial shall be in this form;

Memorandum, That A. B. late servant to C. D. of E. husbandman, or taylor &c. in the said county, is licensed to depart from his said master, and is at liberty to serve elsewhere according to the statute in that case made and provided. In witness whereof, &c. Dated the day, month, year, and place, &c. of the making thereof;

Form thereof

Which testimonial shall be delivered to the said servant, and also registered by the minister of the parish where the master dwells, taking 2d. for the same. 5 *El. c. 4. s. 10.*

And no person that shall depart out of a service shall be retained or accepted into any other service, without shewing (before his retainer) such testimonial to the chief officer of the town corporate, and in every other town and place, to the constable, curate, churchwarden, or other head officer; upon pain that every such servant so departing without such testimonial shall be imprisoned till he procure one; which if he cannot do in 21 days, he shall be whipped and used as a vagabond, according to the laws in such case provided; and every person retaining such servant, without shewing such testimonial, shall forfeit 5l. half to the king, and half to him that shall sue in the sessions or other court of record; and if any such person be taken with a counterfeit testimonial, then to be whipped as a vagabond. *s. 11.*

Testimonial to be shewn.

By the common law, if a man retained another man's servant, not knowing that he was retained with him, this ignorance excused him of the offence; but now the master may, and must take notice whether such servant hath a testimonial or no, otherwise, if he hath no testimonial, such master is liable by the statute to the penalty of 5l. *Dr. & St. 256.*

VII. *Servant fleeing into another shire.*

If any servant of husbandry or of any art science or occupation aforesaid flee into another shire, it shall be lawful for the justices of the peace, and the said mayors or other head officers being justices of the peace, to issue writs of *capias*, directed to the sheriffs of the counties or other head officers of

the places whither he shall flee, to take his body, returnable before them at what time shall please them; so that if they come by such process, they be put in prison till they shall find sufficient surety well and honestly to serve their masters. 5 *El.*

c. 4. f. 47.

And by the 24 G. 2. c. 55. If a justice shall issue a warrant against such person, and he shall escape into another shire, the constable or other person, on having the warrant indorsed by a justice in such other shire, may arrest him there, and carry him before a justice in such other shire, if the offence be bailable, to find bail, or else shall carry him back before a justice in the shire from whence the warrant did first issue.

VIII. *Servant assaulting his master.*

If any servant, workman, or labourer, shall wilfully or maliciously make an assault or affray upon his master or mistress, or upon any other having charge or oversight of such servant or labourer, or over the work wherein he is hired to work, and shall thereof be convicted before any two justices, or other head officer as aforesaid, by confession or oath of two witnesses, he shall be imprisoned for a year or less, by the discretion of two justices out of a town corporate, and in a town corporate of the mayor or other head officer with two others of the discreetest persons of the same corporation; And if the offence shall require further punishment, then to receive such other open punishment so as it extend not to life or limb, as the justices in sessions, or the mayor or other head officer, and six or four at least of the discreetest persons of the corporation, shall think convenient for the quality of the offence. 5 *El.* c. 4. f. 21.

IX. *How far the master is allowed to beat his servant.*

The master is allowed by law, with moderation, to chastise his servant being under age: but if the master or mistress beat any servant of full age, it may be a good cause of discharge, on complaint to the justices. *Dalt. c. 58.* 1 *Bl. Com.* 428.

Where a master in correcting his servant happens to occasion his death, it shall be deemed homicide by misadventure; yet if in his correction he be so barbarous as to exceed all bounds of moderation, and thereby occasion the servant's death, it is manslaughter at least; and if he make use of an instrument improper for correction, and apparently endangering the servant's life, it is murder. 1 *Haw.* 73, 74.

And if the servant shall depart out of his master's service, and the master happen after to lay hold of him, yet the master in this case may not beat or forcibly compel his said servant

vant against his will to return or tarry with him, or do his service; but either he must complain to the justices, for his servant's departure, or he may have an action of covenant against his servant. *Dalt. c. 121.*

X. How far the master may beat another in defence of his servant, or the servant in defence of his master.

According to some opinions, a master shall not forfeit a recognizance of the peace for beating another in defence of his servant; nor the servant for beating another in defence of his master. *1 Haw. c. 61. s. 24.*

But in the case of *Leeward v. Baflee, M. 7 W.* It was held by the court that a servant may justify an assault in defence of his master, but not a master in defence of his servant; because he might have an action for the loss of his service. *1 Salk. 407. 1 L. Raym. 62. Bull. N. P. 18.*

In the case of *Tickel v. Read, E. 13 G 3.* On an action of assault and battery, the defendant pleaded a special plea in justification that he assisted his servant, whom the plaintiff was beating. It was contended that the law will not justify a master interposing on an assault against his servant, by assaulting the person who beats the servant, as it doth a servant in like case interposing for his master; because it is the duty of the servant, who is hired to serve and be assistant to his master's person, but not so the master to the servant. On the other hand, it was contended that the duty of the master and servant is reciprocal; and if the servant owe to the master fidelity and obedience, the master owes to the servant protection and defence; and therefore that the defendant might well justify by this plea. *Lord Mansfield:* I cannot say that a master interposing, when his servant is assaulted, is not justifiable, under the circumstances of the case, as well as a servant interposing for his master: It rests on the relation between master and servant. *Loffi. 215.*

XI. Servants firing houses.

If any menial or other servant, through negligence or carelessness, shall fire or cause to be fired any dwelling house or out-house, and be convicted thereof by oath of one witness before two justices, he shall forfeit 100 l. to the churchwardens, to be distributed amongst the sufferers by such fire; and if he shall not pay the same immediately, on demand of the churchwardens, he shall be committed by the said justices to some workhouse or common gaol, or house of correction, for 18 months,

18 months, there to be kept to hard labour. 6 An. c. 31.
f. 3. 14 G. 3. c. 78. f. 84.

XII. *Servant stealing his master's goods.*

By 33 H. 6. c. 1. Servants violently and riotously making spoil of their deceased master's goods, making default to appear before the court of king's bench on the day limited by the writ issued and on proclamation made, shall be attainted of felony; but if they appear, they may be committed or bailed to answer such actions as the executors may bring against them.

By the 21 H. 8. c. 7. *If any servant to whom any goods shall by his master or mistress be delivered to be kept shall go away therewith, to the intent to steal the same; or being in his master or mistress's service, without his or her assent, shall embezzle or otherwise convert the same to his own use, with like purpose to steal it, if the same be of the value of 40 s. or above, he shall be guilty of felony: but this not to extend to any apprentice, or any person within the age of 18 years*

By his master or mistress] If the master's wife deliver goods of the master to the servant to keep, and he go away with them, it seems this is within the statute, for he hath them by delivery of his mistress, and the master's wife is as well his mistress as if she were sole. 1 H. H. 668.

Be delivered to be kept] This statute was introductive of a new law, when the goods were actually delivered to the servant that goes away with them; for where there is such a delivery it could not at the common law be a felony. 1 H. H. 667.

But yet a servant may be guilty of felony at common law, if he take the goods of his master feloniously, nay, though they be goods under his charge, as a shepherd, butler, and the like; and for this he may be indicted at this day as a felon at common law: and of this felony at common law an apprentice, or servant under the age of 18 years, may be guilty and indicted thereof at common law. 1 H. H. 667.

And therefore though this statute exempt an apprentice or servant under 18 from the pain of felony enacted *de novo* by this statute, namely, where goods are actually delivered to him, yet it leaves him in the same condition as to any felony at common law, as if he were not excepted; and therefore if a butler or shepherd, under the age of 18 years, or if an apprentice, take away his master's goods feloniously, without an actual delivery, though they are under the value of 40s. he is indictable of felony at common law. 1 H. H. 667, 668.

If a man deliver to his servant the key of his chamber door, and the servant take away his master's goods in the chamber
(above

(above the value of 12d.) this is not felony upon the statute but at the common law, for the goods were not delivered. *D. l. c. 1. 5.*

If a man appoint his servant to take and carry corn to market, and to take his horse to carry the same upon, and the servant goeth away with the corn or horse, this is felony in the servant, if the goods he so goeth away with be all to the value of 40s. *Id.*

But if the servant wastefully consume the goods, and return again to his master, this is no felony. *Id.*

If the master deliver an obligation to his servant, to receive the money thereby due, and the servant receive the money, and go away with the same, with intent to steal it; this is no offence within the statute, because he had not the money of the delivery of his master. 3 *Inst.* 105.

So if the master deliver to his servant wares or merchandizes to sell, and he sell the same and go away with the money as be ore, this is no offence within this statute, for the cause aforesaid.

So if the servant receiveth above 40s. of his master's rents, and run away therewith, it is no felony (under this statute); for the statute is, 'where the master delivereth it to keep.' *Dalt. c. 155.*

But it is held that if the master deliver to the servant 20l. in silver to change it into gold at the goldsmith's, or leather to make shoes, and he run away with the gold or shoes, it is felony. 1 *H. H.* 668.

[Of the value of 40s.] The value of the goods shall be computed as they would sell. 2 *East's P. C. c. 16. s. 12.*

[Shall be guilty of felony] But not without benefit of clergy. But by the 12 *An. ji. 1. c. 7.* Every person who shall steal goods to the value of 40s. out of any dwelling house, although it be not broken open, shall be guilty of felony without benefit of clergy; but this not to extend to apprentices under 15 years of age.

And in *Jashua Cornwall's* case, *M. 4 G. 2.* it was adjudged that a servant may be guilty of burglary with respect to his master's goods, although he did not break and enter, nor take nor carry the goods away. The case was thus; the servant in the night opened the street door, and let in the thief, and shewed him the side-board, from whence he took the plate; then the servant opened the door, and let him out, but did not go out with him, but went to bed. Upon the trial it was doubted whether this were burglary in the servant, he not going out with the other; wherefore it was ordered to be found specially. And afterwards at a meeting of all the judges at *Serjeant's Inn*, they were all of opinion that it was

was burglary in both. And upon report of this opinion the next sessions, the defendant was executed. 2 Str. 881.

Servants or clerks embezzling money or goods, felony.

By 39 G. 3. c. 85. If any servant or clerk, or person employed in that capacity, shall receive or take into his possession, any money, goods, bond, bill, note, banker's draft, or other valuable security, or effects, and shall fraudulently embezzle, secrete, or make away with the same, he shall be deemed to have feloniously stolen the same from his master or employer, although no otherwise received into the possession of such person so employed; every such offender, his aider or abetter, shall, on conviction, be transported for not exceeding 14 years. *s. 1.*

See more respecting larceny by servants in general, and of this statute particularly, under title *Larceny*.

XIII. *Disputes between silk masters and their workmen.*

Embezzling goods put out to work.

By the 13 & 14 C. 2. c. 15. Every silk winder and doubler, who shall unjustly or deceitfully and falsely purloin, embezzle, pawn, sell, or detain any part of silk delivered to them to wind or double, in every such case as well the winder or journeyman so offending as the buyer and receiver thereof, being lawfully convicted, by confession, or oath of one witness, before one justice (or mayor), shall render to the party grieved such satisfaction for his damage and loss and charges, as the justice shall order. *s. 6.*

But no more damages shall be given than the party grieved shall prove he is damaged and hath expended; and if the party shall not be able or do not make recompence in 14 days after conviction, he shall for the first offence be apprehended and whipped, or set in the stocks where the offence was committed, or in some market town near in the said county; and for the second offence, to incur the like, or such further punishment by whipping or being put in the stocks, as such justice shall think convenient. *s. 7.*

By the 20 C. 2. c. 6. If any silk winder or doubler shall be found faulty in unjustly, deceitfully, or falsely purloining, embezzling, pawning, selling, or detaining any silk committed to his trust, any justice, or mayor, shall immediately on conviction by confession, or oath of one witness, commit him to prison or to the house of correction till satisfaction be given to the party wronged, or punishment inflicted as by the 13 & 14 C. 2. is appointed.

Embezzling, or receiving embezzled goods.

And by the 8 & 9 W. c. 36. Every person that shall embezzle, pawn, sell, or detain any silk delivered to him to be wrought, or after it is wrought up, and also the receiver and buyer thereof, or such as take the same to pawn, shall be subject

ject to all the penalties of the 13 & 14 C. 2, c. 15. and the 20 C. 2, c. 6.

By 32 G. 3. c. 44. If any person shall buy, receive, accept, or take by way of gift, pawn, pledge, sale, or exchange, or in any other manner whatsoever, from any person employed to work up the silk manufacture, or silk mixed with other materials, any silk, whether the same be or be not first wrought up, and whether the same be or be not mixed with other materials, knowing such person to be so employed as aforesaid, and not having first obtained the consent of the person so employing him, or whether any silk shall have been purloined or embezzled by any person, shall buy, receive, accept or take from any person, any such silk, whether wrought or unwrought, mixed or unmixed, knowing the same to have been purloined or embezzled, the person so buying, receiving, accepting, or taking any such silk, may be proceeded against as directed by 22 G. 2. c. 27. and 17 G. 3. c. 56. or may be prosecuted for a misdemeanor, and punished by fine, imprisonment, or whipping, as the sessions, (who are empowered to try such offenders), or other court where tried, may think fit, although no proof upon such trial be given to whom such silk doth belong. *f. 4.*

Buying silk from those employed to work it up, knowing them to be so employed.

And if any person shall sell, pawn, pledge, exchange, or otherwise unlawfully dispose of any silk, wrought or unwrought, mixed or unmixed, knowing the same to have been so purloined or embezzled; he shall be liable to the same punishment as persons convicted of receiving purloined or embezzled silk would be liable to by virtue of this act. *f. 5.*

Selling of purloined silk.

And by the 22 G. 3. c. 40. If any person shall by day or night break into any house or shop, with intent to cut or destroy any velvet, wrought silk, or silk mixed with any other materials or other silk manufacture, in the loom, or any warp or shuttle, tools, tackle, or utensils, or wilfully and maliciously cut, break, or destroy the same, he shall be guilty of felony without benefit of clergy. *f. 2.*

Breaking in to destroy.

By the 13 G. 3. c. 68. The wages of journeymen weavers in the silk manufacture [or silk mixed with other materials, 32 G. 3. c. 44. *f. 1.*] in *London* shall be settled by the lord mayor, recorder, and aldermen; in the county of *Middlesex*, by the justices of the said county; in the city and liberty of *Westminster*, by the justices there; within the liberty of the *Tower*, by the justices in and for the said liberty; at their general quarter sessions respectively; who shall, within 14 days after, cause the same to be published thrice in any two daily newspapers in *London* or *Westminster*.

Wages how to be settled.

And if any master weaver shall give more or less wages than shall be so settled, he shall, on conviction before two justices, on the oath of one witness, forfeit 50*l.* by distress;

to

to be paid to the master of the weavers company, for the use of distressed journeymen.

If any journeyman shall take more or less than so rated, or enter into any combination to raise the wages; he shall, on the like conviction, forfeit not exceeding 40s. to be applied in like manner: and if not paid immediately, he shall be committed to the house of correction to hard labour not exceeding three months.

And two justices, upon information on oath, that there is reason to suspect, that any master or journeyman hath been guilty of any of the offences aforesaid, may summon any clerk, foreman, apprentice, servant, or other person whose attendance appears necessary, to give evidence; and if such person shall not attend on the said summons, they shall issue their warrant to bring him before them; and if he shall refuse to give evidence they shall commit him to the house of correction for one month, unless he shall sooner submit to be examined and give evidence.

And if any master weaver, residing within the limits aforesaid, shall retain or employ any journeyman out of the said limits, with intent to evade this act, he shall forfeit 50l. half to the king, and half to him that shall sue in any of the courts of record at *Westminster*.

Provided, that nothing herein shall extend to fix the wages of any person employed in the said business as foreman.

Conviction.

And by 32 G. 3. c. 44. The conviction may be drawn up in the following form, or to the like effect:

Westmorland } *BE it remembered, that on this ——— day*
to wit, } *of ———, in the year of our Lord ———,*
A. B. is convicted before us, I. P. and C. P. two of his majesty's
justices of the peace in and for the said county of ———, or for
the city, liberty, town, or place, [as the case may be] for, [here
specify the offence, and when and where the same was com-
mitted:] and we the said justices do adjudge him to pay and for-
feit for the same the sum of ———. Given, &c.

And the same shall be written on parchment, and filed at the next sessions. *f. 2.*

And no proceedings shall be quashed for want of form, nor be removed by *certiorari* into any other court. *f. 3.*

Number of
apprentices.

And no silk weaver shall have more than two apprentices at one time, on pain of 20l. to be recovered before two justices as is aforesaid.

Appeal.

Provided, that persons convicted before two justices may appeal to the next general quarter sessions, or next general sessions.

XIV. *Disputes between clothiers and their workmen, by divers statutes.*

By the 4 *Ed. 4. c. 1.* Clothmakers shall pay to the carders, spinsters, and other labourers, their wages in money and not in goods, and deliver wool to them to be wrought according to the due weight thereof, on pain of forfeiting treble the value of the wages, and for every delivery of excessive weight 6d. *f. 5.*

And every carder, spinster, weaver, fuller, shearman, and dyer, shall duly perform his duty in his occupation, on pain of double damages to the party grieved. *f. 6.*

Every justice of the peace, mayor, master, warden, bailiff, portreeve, constable of hundred, and steward of the leet, may hear and determine the same, and commit the offender to the next gaol till the said duties, forfeitures, and damages be paid. And any person not grieved may inform; in which case the offender shall forfeit to the king or to such person as shall be entitled to fines or amerciaments, 3s. 4d. And they may grant like process as justices of the peace may do for surety of the peace, without any fee to be taken for the execution of their offices in this behalf. *f. 6.*

Power of the justices.

By the 7 *J. c. 7.* Every sorter, carder, kember, spinster, and weaver, who shall unjustly, falsely, or deceitfully convey, embezzle, purloin, sell or detain any part of the wool or yarn delivered by any clothier, maker of bays, says, or by any other person making such cloths or stuffs, and also the buyer and receiver thereof knowing the same, being thereof convicted by confession, or oath of one witness, before two justices, or before the mayor and one of the aldermen or most substantial persons of a town corporate, shall make such satisfaction for damages as the said justices or chief officers shall appoint; and if the offender shall not by them be thought sufficient, or do not make such satisfaction, he shall for the first offence be apprehended and whipped, or set in the stocks where the offence is committed, or in some market town near in the same county; and for the second offence shall incur the like or such further punishment by whipping, or being put in the stocks, as the said justices or chief officers shall think convenient. *f. 2.*

And every spinner that shall receive any wool to be spun into yarn for any clothier dwelling in *Cogshall, Bocking, Braintree, Halstead, Witley, or Colchester*, and shall deliver back the yarn by any reel shorter than two yards about, shall be subject to the like punishment. *f. 4.*

By the 10 *An. c. 16.* Every clothier, clothworker, card-maker, or other person concerned in the trade of the woollen manu- Wages to be paid in money.

manu-

manufacture, shall pay his workmen in money, and not in goods; on pain of 20s. on conviction (the prosecution being within 30 days) before one justice, on oath of one witness, half to the informer, and half to the poor: If he shall not pay in 14 days after conviction, the same to be levied by the constable by warrant of such justice, by distress; and where no sufficient distress can be found, to be committed to the gaol or house of correction, to be kept to hard labour not exceeding three months. *f. 6, 7, 8.*

Persons aggrieved on this act may appeal to the next sessions, who may allow costs. *f. 9.*

By the 1 G. 2. c. 15. Every clothier, clothworker, cardmaker, or other person concerned in the trade of the woollen manufacture, shall pay his workmen in money, and not in goods; on pain of 40s. on conviction (in 40 days) before one justice, on oath of one witness; to be disposed, if in *London*, to the benefit of *Christ's Hospital*, elsewhere to the poor where the offence shall be discovered; and if he shall not pay in 30 days, to be levied by the constable, by warrant of such justice, by distress; and where no sufficient distress can be found, to be committed to the common gaol or house of correction, to be kept to hard labour for three calendar months. *f. 7, 8, 12.*

Breaking houses
to destroy goods.

By the 22 G. 3. c. 40. If any person shall, by day or night, break into any house or shop, with intent to cut or destroy any serge or other woollen goods in the loom or on the rack, or any tools employed in making thereof, or shall burn cut or destroy any rack on which any such serges or other woollen goods are hanged to dry, or any tools used in the making thereof; he shall be guilty of felony without benefit of clergy. *f. 1.*

Length and
weight of goods
delivered out to
workmen.

By the 13 G. c. 23. Whereas disputes have arisen between the clothiers and makers of woollen cloth and the manufacturers employed by them, concerning the length of the warping bars and uncertainty of weights, by which wool yarn and other materials used in the manufacturing of woollen goods have been delivered out to the workmen; for quieting the same, it is enacted that it shall not be lawful for any maker of mixed medley, or white cloth, to use any bars called warping bars, but only such which shall be of the measure and length hereafter appointed; that is to say, every long warping bar shall be in length three yards and three inches, and no more; and every round warping bar shall be four yards and four inches round, and no more; the said three inches on the long bar, and four inches on the round bar, being in lieu of the over measure usually allowed on cloth; and also the thrums at the end of the warping bars shall not exceed 18 inches in length; and if any maker of such cloth shall

shall use any warping bar of other length or measure, or with thrums exceeding 18 inches in length, he shall forfeit 10*l.* *s.* 1.

Every maker of such cloth, or goods mixed with wool, shall give out all wool, yarn, or other materials by weight at 16 ounces to the pound; and shall receive back the same by the same weight, on pain of 5*l.* *s.* 2.

Offences against this act shall be determined by two justices on information on oath within three calendar months; who shall levy the penalties by distress, half to the informer, and half to the poor; for want of sufficient distress, to be committed to gaol not exceeding three months, or until satisfaction be made. *s.* 4.

To be determined by two justices.

And all disputes and demands, relating to work, wages, or damages, between any clothier or maker of woollen goods or goods mixed with wool and any weaver or other person employed in such manufactures, shall be determined by two justices, who shall on complaint summon the parties, and hear and examine on oath, and adjudge such satisfaction and give such costs and damages to the party grieved as they shall judge reasonable, and issue their warrant to levy such costs and damages (if not paid in ten days) by distress; and for want of sufficient distress, shall commit the party to the county gaol or house of correction, not exceeding three months, or till satisfaction be made. *s.* 5.

Persons aggrieved by order of such justices may appeal to the next sessions, giving six days notice; and the sessions may award such costs and damages as they shall judge reasonable, and levy the same by distress; and for want of sufficient distress, may commit the party to the county gaol or house of correction, not exceeding three calendar months or till satisfaction be made; and no proceedings herein shall be removed by *certiorari* or other process. *s.* 6.

Appeal.

And one justice, on information on oath that any person is or is suspected to be guilty of any the ill practices aforesaid, may issue his warrant to the constable, or other peace officer, or to any churchwarden or overseer, directing him in the day time to enter into any house, shop, warehouse, or other suspected place, to search for and examine all such bars and weights as shall be made use of for the purposes before mentioned, by any such clothier or maker of woollen goods; and if such person shall interrupt the officer, he shall forfeit 5*l.* *s.* 7.

And every maker of mixed, medley, or white broad cloth, shall pay the weaver according to the number of yards that the chains are laid on the warping bars, and not otherwise, on pain of 5*l.* *s.* 9.

By the 29 G. 2. c. 33.

If any clothier, serge-maker,

Wages to be paid in money.

woollen or worsted stuff-maker, worsted or woollen yarn stocking-master, or person concerned in making any woollen cloths, serges, stuffs, worsted or woollen yarn stockings, or any other person any way concerned for himself or another in employing weavers, combers of jersey or wool, worsted combers, spinners, knitters, or other labourers, in the woollen manufactures, shall pay any person his wages in goods, or by way of truck, bill or note, or in any other manner than in money; he shall (on prosecution in three months) forfeit 20l. to be recovered by action of debt, by any person who shall sue for the same.—Or otherwise, before two justices, by confession or oath of one witness, by distress (if not paid in 14 days;) and to be distributed, half to the informer, and half to the poor: And for want of sufficient distress, to be committed to the house of correction for any time not exceeding three months, or until satisfaction shall be made. Persons aggrieved by the order of the justices may appeal to the next sessions, first entering into recognizance with sufficient security before the justices to prosecute and abide by the order that shall be made on such appeal, and giving eight days notice in writing to the party in whose favour the order was made. And the sessions may award costs and damages, and by their order or warrant may levy such costs and damages by distress; and for want of sufficient distress, may commit the party to the common gaol for any time not exceeding three months, or until satisfaction shall be made. And the order of sessions shall be final; and no proceedings of the justices out of or in the sessions, shall be removed by *certiorari* or otherwise.

By the 30 G. 2. c. 12. If any clothier or maker of any mixed, medley, or white broad cloth, shall refuse or neglect to pay to the weaver employed by him his wages or price agreed on in money within two days next after the work shall be performed and delivered to such employer or some person on his behalf (the same being demanded of such employer or person employed on his behalf;) every such clothier or person so offending shall forfeit 40s. to be recovered and disposed of as by the said act of the 29 G. 2. c. 33.

And by the 14 G. 3. c. 25. If any picker, scribbler, spinner, or weaver, or other person employed in the manufacturing of woollen cloth, or in preparing materials for that purpose, shall not return all working tools or implements wherewith he shall be intrusted, and all wool, yarn, chain, woof, or abb, delivered out to be wrought, or shall not give a satisfactory account of the same to his employer; or shall fraudulently steam, damp, or water the wool or yarn delivered to him to be wrought (thereby to increase the weight;) or shall take off, cut, or pick out the list, sorrel, or other mark

of

Working tools,
&c. to be re-
turned

of any piece of cloth; he shall, on conviction before one justice where the offender shall reside, by confession or oath of one witness, be committed to the house of correction for one calendar month. *f. 1.*

If any such offender shall abscond, or cannot be found; or shall sell or otherwise dispose of any of the said tools, implements, or materials; or if any person shall fraudulently buy or receive any of the same; or if any person shall be charged on suspicion with having embezzled and kept back, by means of fraudulently damping, steaming, or watering the wool and yarn delivered out to him, or with having sold, bought, or otherwise received the same,—and oath shall be made thereof before one justice where the offence was committed; such justice shall issue his warrant to the constable, to enter into and search in the day time the dwelling house of such person, and also such other house or place, of which the clothier or his servant shall make oath that he has just cause to suspect (it appearing to the said justice to be reasonable suspicion) that the said tools or materials, or some part thereof, may be secreted: And if, upon search, any of the said working tools, wool, yarn, chain, worst, or abb, or any cloth, with the list, sorrel, or other mark taken off, cut, or picked out, shall be found; the constable shall seize the same, and apprehend the person in whose custody they shall be found, and bring him before the same or some other justice; and unless he can give a good account how he came by the same to the satisfaction of such justice, he shall be thereof convicted, and suffer the like punishment as for not returning the tools or materials as aforesaid. And all such tools and materials so seized and not accounted for shall, upon such conviction, be delivered over to the churchwardens or overseers of the poor of the parish where the same were seized, to be by them sold for the use of the poor of the said parish. *f. 2.*

Provided, that if the person accused shall request of the justice to appoint a reasonable time to produce the person of whom he bought or received the same, or any witness to prove the sale or delivery thereof; the said justice shall appoint such time as aforesaid, and shall issue a summons to the constable where such person or witness shall reside, requiring them to appear at such time and place as the justice shall appoint, in order to be examined on oath of the several matters aforesaid; but such person, at the time of making the said request, shall enter into recognizance for his appearance at the time so to be set; or for want of such recognizance, he shall be committed until the said time. *f. 3.*

And upon information on oath made to any justice that there is just cause to suspect that any ends of yarn, wests, Concealing
ends of yarn, &c.

thrums, short yarn, or other refuse of cloth, druggert, or of other woollen goods, or of goods mixed with wool, (flocks and pinions only excepted), have been collected and received, and are lodged or concealed in any dwelling house, warehouse, out-house, yard, or other place; such justice shall by his warrant cause every such place to be searched in the day time; and if any of the said goods or materials (flocks and pinions only excepted) above the quantity of three pounds shall be found therein, he shall cause the person in whose house or other place the same shall be found, to be brought before him or some other justice: And on proof made upon oath before such justice that such goods or materials were found in the house or other place of such person so brought before him; the said person, not exculpating himself to the satisfaction of such justice, shall suffer the like punishment as for not returning the tools or materials as aforesaid. *f. 4.*

Conviction.

And the conviction shall be in the manner and form following:

BE it remembered, That on the ——— day of ——— in the year of our Lord ——— A. B. is convicted before me ——— one of his majesty's justices of the peace in and for the ——— of ——— of having [here specify the offence and the time and place when and where the same was committed.] Given under my hand and seal the day and year first above mentioned.

And the justice shall cause the same to be written on parchment, and filed at the next sessions. *f. 8, 9.*

Appeal.

The justice, at the time of the conviction, shall make known to the party convicted that he hath a right to appeal to the next sessions. And if such person intends to appeal, he shall, at the time of the conviction, give notice thereof in writing to the justice, and at the same time enter into recognizance with sureties conditioned to try the appeal and to abide the judgment of, and pay such costs as shall be awarded by the justices at such sessions. And the justices there, upon proof of such notice and recognizance, shall hear and determine the matter, and may award costs to either party. *f. 7.*

Second offence.

But if upon information on oath before a justice, it shall appear to him that the person informed against hath been already convicted of any offence against this act, such justice shall not proceed to convict him, but shall commit him to the house of correction till the next sessions, or until he shall have entered into recognizance with sufficient sureties to appear at such sessions, and abide the order of the justices there; and the justices shall also bind over the informer to prosecute

prosecute at such sessions. And if the person informed against shall be found guilty at the said sessions, the justices there shall commit him to the house of correction for any time not exceeding three calendar months. But if it appear to the said justices that such person hath been already convicted at some sessions of any offence against this act; then they shall, upon conviction, commit him to the house of correction for any time not exceeding six calendar months, and also order him to be once publicly whipped at such time and place as they shall appoint. *f. 5, 6.*

Provided always, that no person shall be proceeded against upon this act, unless information upon oath be made before a justice within three calendar months after the offence committed. *f. 10.*

Finally, no proceedings on this act shall be quashed for want of form, or removed by *certiorari* or other writ. *Id.*

XV. Disputes between masters and servants in the woollen, linen, fustian, cotton, and iron manufactures; by the 1 An. st. 2. c. 18. & 13 G. 2. c. 8.

By the 1 An. st. 2. c. 18. If any person employed in the woollen, linen, fustian, cotton, or iron manufactures, shall embezzle or purloin any wefts, thrums, or ends of yarn, or any other materials of wool, hemp, flax, cotton, or iron, or shall reel short or false yarn, and shall be convicted by oath of one witness, or confession, before one justice, he shall forfeit double the value of the damages: And if he shall neglect or refuse to pay the same, the justice shall commit him to the house of correction until satisfaction shall be made: And if it shall appear to the justice that he is not able to make satisfaction, he shall be there publicly whipped and kept to hard labour not exceeding 14 days. *f. 1.*

Embezzling goods put out to work.

And every person buying or receiving any wefts, thrums, or ends of yarn, or other materials of wool, hemp, flax, cotton or iron, shall suffer in like manner. *f. 2.*

And all payments to the said workmen, shall be in money, and not in cloth, victuals, or commodities; and all wool delivered out to be wrought up shall be delivered with declaration of the true weight thereof; on pain that every offender in either of the said cases shall forfeit double the value of what shall be due for such work; and if any such workman shall be guilty of any such fraud or default in the work by him done, he shall answer double damages. *f. 3.*

Workmen to be paid in money.

And all wages, demands, frauds, and defaults of labourers, in the said manufactures, concerning work done, shall be determined by two justices, who may summon and examine witnesses on oath: Persons aggrieved may appeal to the sessions

Power of the justices.

thrums, short yarn, or other refuse of cloth, drugget, or of other woollen goods, or of goods mixed with wool, (flocks and pinions only excepted), have been collected and received, and are lodged or concealed in any dwelling house, warehouse, out-house, yard, or other place; such justice shall by his warrant cause every such place to be searched in the day time; and if any of the said goods or materials (flocks and pinions only excepted) above the quantity of three pounds shall be found therein, he shall cause the person in whose house or other place the same shall be found, to be brought before him or some other justice: And on proof made upon oath before such justice that such goods or materials were found in the house or other place of such person so brought before him; the said person, not exculpating himself to the satisfaction of such justice, shall suffer the like punishment as for not returning the tools or materials as aforesaid. *f. 4.*

Conviction.

And the conviction shall be in the manner and form following:

BE it remembered, That on the ——— day of ——— in the year of our Lord ——— A. B. is convicted before me ——— one of his majesty's justices of the peace in and for the ——— of ——— of having [here specify the offence and the time and place when and where the same was committed.] Given under my hand and seal the day and year first above mentioned.

And the justice shall cause the same to be written on parchment, and filed at the next sessions. *f. 8, 9.*

Appeal.

The justice, at the time of the conviction, shall make known to the party convicted that he hath a right to appeal to the next sessions. And if such person intends to appeal, he shall, at the time of the conviction, give notice thereof in writing to the justice, and at the same time enter into recognizance with sureties conditioned to try the appeal and to abide the judgment of, and pay such costs as shall be awarded by the justices at such sessions. And the justices there, upon proof of such notice and recognizance, shall hear and determine the matter, and may award costs to either party. *f. 7.*

Second offence.

But if upon information on oath before a justice, it shall appear to him that the person informed against hath been already convicted of any offence against this act, such justice shall not proceed to convict him, but shall commit him to the house of correction till the next sessions, or until he shall have entered into recognizance with sufficient sureties to appear at such sessions, and abide the order of the justices there; and the justices shall also bind over the informer to prosecute

prosecute at such sessions. And if the person informed against shall be found guilty at the said sessions, the justices there shall commit him to the house of correction for any time not exceeding three calendar months. But if it appear to the said justices that such person hath been already convicted at some sessions of any offence against this act; then they shall, upon conviction, commit him to the house of correction for any time not exceeding six calendar months, and also order him to be once publicly whipped at such time and place as they shall appoint. *f. 5, 6.*

Provided always, that no person shall be proceeded against upon this act, unless information upon oath be made before a justice within three calendar months after the offence committed. *f. 10.*

Finally, no proceedings on this act shall be quashed for want of form, or removed by *certiorari* or other writ. *Id.*

XV. Disputes between masters and servants in the woollen, linen, fustian, cotton, and iron manufactures; by the 1 An. st. 2. c. 18. & 13 G. 2. c. 8.

By the 1 An. st. 2. c. 18. If any person employed in the woollen, linen, fustian, cotton, or iron manufactures, shall embezzle or purloin any wefts, thrums, or ends of yarn, or any other materials of wool, hemp, flax, cotton, or iron, or shall reel short or false yarn, and shall be convicted by oath of one witness, or confession, before one justice, he shall forfeit double the value of the damages: And if he shall neglect or refuse to pay the same, the justice shall commit him to the house of correction until satisfaction shall be made: And if it shall appear to the justice that he is not able to make satisfaction, he shall be there publicly whipped and kept to hard labour not exceeding 14 days. *f. 1.*

Embezzling goods put out to work.

And every person buying or receiving any wefts, thrums, or ends of yarn, or other materials of wool, hemp, flax, cotton or iron, shall suffer in like manner. *f. 2.*

And all payments to the said workmen, shall be in money, and not in cloth, victuals, or commodities; and all wool delivered out to be wrought up shall be delivered with declaration of the true weight thereof; on pain that every offender in either of the said cases shall forfeit double the value of what shall be due for such work; and if any such workman shall be guilty of any such fraud or default in the work by him done, he shall answer double damages. *f. 3.*

Workmen to be paid in money.

And all wages, demands, frauds, and defaults of labourers, in the said manufactures, concerning work done, shall be determined by two justices, who may summon and examine witnesses on oath: Persons aggrieved may appeal to the sessions

Power of the justices.

sions to be holden next after notice of the order of the said two justices: and if the sessions give judgment against the appellant, they shall order him to pay such costs as to them shall seem meet. *f. 4.*

By the 13 G. 2. c. 8. If any person employed in the working up of any woollen, linen, fustian, cotton, or iron manufactures, shall purloin, embezzle, secrete, sell, pawn, exchange, or otherwise illegally dispose of any of the materials, whether the same or any part thereof be or be not first wrought up, or shall reel short or false yarn, and shall be convicted thereof as by the 1 *An. fl. 2. c. 18.*, he shall forfeit double value of the damages, together with such costs as the justice shall judge reasonable; and if not paid immediately, the said justice shall cause him to be committed to the house of correction, to be whipped and kept to hard labour, not exceeding 14 days; and for a second or other subsequent offence for such embezzling or purloining, he shall forfeit four times the value of the damages, together with such costs as the justice shall judge reasonable; and if not paid immediately, then such or any other justice shall cause him to be committed to the house of correction, to be kept to hard labour for any time not exceeding three months, nor less than one month, and also during the time of such commitment shall cause him to be publicly whipped in the market town where he shall be committed, at the market place or cross once or oftener as to such justice shall seem reasonable. *f. 1.*

And the receivers of the same shall be subject to the like penalties. *f. 2.*

The forfeitures by both these acts shall be half to the party injured, and half to the poor; with the like liberty of appealing on this act as on the 1 *An. Id. f. 3.*

XVI. *Disputes between masters and their workmen, in the leathern manufactures; by the 13 G. 2. c. 8.*

Embezzling
goods put out
to work.

If any person employed in cutting, paring, washing, dressing, sewing, making up, or otherwise manufacturing gloves, breeches, leather, skins, boots, shoes, slippers, wares, or other goods or materials to be made use of in any the said employments, or in any branch or particular thereof, shall fraudulently purloin, embezzle, secrete, sell, pawn, or exchange all or any part of the gloves, breeches, leather, skins, parings, or shreds of gloves, or leather, boots, shoes, slippers, or other the said wares, either before or after they shall be made into wares, and be thereof convicted by the oath of the master or owner, or other credible witness, or confession, before the justice

justice where the offence shall be committed or the offender shall reside; such justice may award him to make satisfaction to the party injured, not exceeding double the value of the goods so purloined or disposed of, half to the party grieved and half to the poor, together with full charges attending the conviction; to be levied by distress and sale; and if he shall not have goods sufficient and shall not pay immediately, such justice shall commit him to the house of correction or other public prison, to be kept to hard labour for 14 days, and whipped, in such manner as the justice shall direct; and for a second or other subsequent offence, he shall forfeit four times the value of the damages, together with such costs as the justice shall judge reasonable; and if not paid immediately, to be committed to the house of correction or other public prison, to be there kept to hard labour not exceeding three months, nor less than one month, and also during such commitment to be publicly whipped in the market town where he shall be committed at the market place or cross once or oftener, as to such justice shall seem reasonable. *f. 4.*

Every person who shall knowingly or willingly receive any the said goods or materials either from the person offending or from any other person (except the owner), or offer so to do; he shall, on like conviction, make such recompence in two days, or else be subject to such distress, and for want of sufficient distress be liable to the like punishment, as the person so purloining or otherwise disposing thereof as above; and so in like manner for the second and every subsequent offence. *f. 5.*

Receiving embezzled goods.

And all payments to workmen employed in the said manufactures shall be in money, and not in goods, except by their own request and consent; and all materials delivered out to be wrought in such manufactures shall be delivered with a declaration of the true weight, quantity, or tale thereof; on pain of forfeiting to such manufacturer double value of what shall be due for his work; and if such labourer or manufacturer shall be guilty of any fraud abuse neglect or default in the work by the undertaker to be done, he shall answer to the owner double damages. *f. 6.*

Workmen to be paid in money.

And all wages, demands, frauds, abuses, neglects, and defaults of labourers and manufacturers in the said trades, concerning any work done in such manufacture, shall be determined by two justices, who may summon and examine witnesses upon oath. *f. 7.*

Power of the justices.

Moreover, every person retained or employed in making up any of the said manufactures for any one master, and neglecting the performance thereof, either by procuring or permitting himself to be subsequently employed by any other master before he hath completed the work, shall on conviction

Work to be finished.

tion by oath of one witness before one justice be sent to the house of correction, to be kept to hard labour not exceeding one month. *f. 8.*

Appeal.

Persons aggrieved by any order of the said two justices may appeal to the next sessions, giving eight day's notice; and the sessions may award costs to either party. But no order of such two justices shall be appealed against, or quashed, for want of form only. *f. 9.*

XVII. *Disputes between masters and their workmen, in the making of bats, or in the woollen, linen, fustian, cotton, iron, leather, furr, hemp, flax, mohair, or silk manufactures; by the 22 G. 2. c. 27. and other statutes.*

Embezzling
goods put out
to work.

If any person hired or employed to make any felt or hat or to prepare or work up any woollen, linen, fustian, cotton, iron, leather, furr, hemp, flax, mohair, or silk manufactures, or any manufactures made up of wool, furr, hemp, flax, cotton, mohair, or silk, or of any the said materials mixed one with another, shall purloin, embezzle, or otherwise unlawfully dispose of any of the materials with which he shall be intrusted, whether the same be or be not first wrought up, and be convicted thereof by the oath of the owner, or other credible witness, or confession, before two justices, he shall for the first offence be committed to the house of correction or other public prison, there to be kept to hard labour for not less than 14 days nor more than three months; and for a second or any other subsequent offence, not less than three months nor more than six months; and the justices may likewise, for the first or any subsequent offence, order the offender to be once publicly whipped, if such additional punishment shall by them be deemed proper. 22 G. 2. c. 27. *f. 1. 17 G. 3. c. 56. f. 1, 2.*

And if any person shall be convicted as aforesaid of buying, receiving, or taking, by way of gift, pledge, sale, or exchange, or in any other manner, from any person whom he knows to be employed to make or prepare any the said manufactures, any thrums or ends of yarn, or any other materials of wool, furr, hemp, flax, cotton, iron, or any leather, mohair, or silk, whether the same be or be not first wrought up, the consent of the employer not being first had; or of buying or receiving in any manner whatsoever from any other person any of the said materials, whether the same be or be not first wrought up, knowing them to be purloined or embezzled he shall, for the first offence, forfeit not more than 40*l.* nor less than 20*l.*; the same to be applied, by direction of the

justices, in the first place to defray the expences of the prosecution ; next, to make such satisfaction to the party injured as the justices shall think proper ; afterwards to the informer, a sum not exceeding 10l ; and the remainder to the poor of the place where the conviction shall be, or to such other public charity as the justices shall appoint : And if the said penalty shall not be paid on conviction, the justices shall commit the offender to the house of correction or other public prison there to be kept to hard labour for any time not more than six months nor less than three months, unless the penalty shall be sooner paid ; or the justices may send him to the house of correction or other public prison for three days exclusive of the day of commitment, with an order that within the said time the offender shall be once publicly whipped at the market place or some other public place where the offender shall be committed. For a second offence, if a person brought before the justices shall be charged therewith upon oath, they shall not proceed to convict him, but shall commit him to the house of correction or other public prison till the next general, or general quarter sessions, or till he shall have entered into recognizance to answer for such offence at the said sessions ; and the justices there shall hear and determine the matter ; and if the person shall be convicted, he shall forfeit not more than 100l. nor less than 50l. to be recovered and distributed in like manner as the penalty for the first offence. 22 G. 2. c. 27. s. 2. 17 G. 3. c. 56. s. 3. 4.

And if any person shall sell pawn exchange or otherwise dispose of any such materials, knowing them to have been purloined or embezzled, he shall suffer like punishment as for receiving the same. 17 G. 3. c. 56. s. 5.

And although the purloined materials be worked up, or otherwise disposed of, so that it may be difficult to convict the offender, two justices as aforesaid, or the justices in sessions respectively, on proof upon oath that such person hath purloined or embezzled, or received such materials knowing them to be purloined or embezzled, may convict the offender, although no proof shall be given to whom such materials belong. *Id.* s. 6.

All which provisions in respect of materials shall extend to all tools and implements for manufacturing the said materials ; and also to all drugs or ingredients wherewith any person shall be intrusted for dying, preparing, and manufacturing the same. *Id.* s. 16.

If any person shall wilfully damage, spoil, or destroy, any work committed to his charge ; he shall, on conviction as aforesaid, forfeit to the owner double value, by distress ; for want of sufficient distress, the offender shall be committed to the

Spoiling work
wilfully ;

the house of correction, to be kept to hard labour for any time not exceeding three months, or till satisfaction be made. 22 G. 2. c. 27. s. 12.

or neglecting to
perform work
in due time.

If any person hired or employed to work up materials for any master shall neglect the performance thereof for eight days successively; or having taken in any materials for manufacture from one master shall afterwards take in any from another master; or suffer himself to be employed in any other occupation sooner than eight days before the completion of the work first taken; he shall be sent in like manner to the house of correction or other public prison, to be kept to hard labour, not exceeding three months nor less than one: And if any person shall receive any of the said materials in a fictitious name in order to be manufactured, or shall receive the same in his own name, and afterwards deliver them to any other person to be manufactured; or if any carrier, or other person employed to deliver such materials, shall deliver the same to any other person than him to whom the owner ordered them to be delivered; he shall suffer as in case of neglecting the performance of the work for eight days. 17 G. 3. c. 56. s. 8; 9.

Owner of ma-
terials may enter
shops, &c. of
workmen.

And it shall be lawful for the owner of the materials to enter at all reasonable hours in the day time into the shop, outhouse, or other place, of any person employed by him to work up any the said materials, and there to inspect the condition thereof; and if any person shall refuse to permit such entrance or inspection, he shall forfeit any sum at the discretion of the justices not exceeding 40s. nor less than 10s. to be levied and applied as for having materials, and not being able to give a satisfactory account how he came by them. *Id.* s. 15.

Work to be
returned when
finished.

If any person intrusted with any of the said materials, in order to work up the same, shall neglect, for the space of eight days after the work shall be finished, to return (if required by the owner) so much of the said materials as were not used, he shall suffer as for purloining or embezzling. *Id.* s. 7.

Power of the
justices.

And two justices, on complaint upon oath that there is cause to suspect that any embezzled materials, whether mixed or unmixed, wrought or unwrought, are concealed in any dwelling-house, out-house, yard, garden, or other place, may by their warrant cause the same to be searched in the day time: and if any such materials shall be found, they may cause the same, and the person in whose possession they were found, to be brought before them or any other two justices of the district; and if such person shall not give an account to the satisfaction of the justices how he came by the same, he shall be convicted, although no proof shall be given to whom

whom the materials belong: And every peace officer, and watchman during the time he is upon duty, may apprehend any person who may be reasonably suspected of carrying after sun-setting and before sun-rising any such materials, and the same together with such person may carry before two justices; and if he shall not produce the party of whom he bought or received the same, or some person to testify upon oath the sale or delivery thereof, or shall not give a satisfactory account how he came by the same, he shall be convicted in like manner although no proof shall be given to whom such materials belong.—Provided, that in either of these cases if the person who shall be brought before the justices shall request them to appoint a reasonable time to produce the person of whom he bought or received the same, or a witness to prove the sale or delivery thereof, the justices may appoint such time, and issue a summons to the constable where such person or witness shall reside, requiring him to appear and give evidence: but such person, at the time of his request, shall enter into recognizance for his appearance at the time; or, for want of such recognizance, shall be committed until such time appointed. 17 G. 3. c. 56. s. 10, 11, 12.

When a person shall be convicted in either of the cases foregoing, the justices may cause the materials so found or seized to be deposited with the churchwardens or overseers for any time not exceeding 30 days; and in the mean time shall order them to advertise the same in some newspaper usually circulated there, or otherwise to cause notice to be given by some public cryer, and by fixing such notice on the church or chapel door, that those who have lost such material may come and claim the same; and if any person can prove them to be his, the justices shall order them to be restored to the owner, he paying the charges of removing depositing and giving notice. But if before the end of 30 days no person shall prove his property, the justices shall order the same to be sold, and after deducting such charges as aforesaid, together with the charges of sale, one moiety of the money arising from such sale shall be given to the prosecutor, and the other moiety either to the poor where the conviction shall be, or to such public charity as the justices shall appoint: And the offender shall forfeit for the first offence 20l., for the second offence 30l., and for every subsequent offence 40l. All which said respective forfeitures shall be levied by distress, and distributed half to the informer and half to the poor where the conviction shall be, or to such public charity as the justices shall appoint: if no sufficient distress shall be found, the justices shall commit the offender to the common gaol or other prison, or to the house of correction, for one month for the first offence, for two months

for

for the second offence, and for six months for every subsequent offence. *Id.* f. 13, 14.

Servant dying
goods for his
own profit.

If any person employed as a journeyman dyer, servant or apprentice, in the dying of any felt, or hat, or any woollen, linen, fustian, cotton, leather, fur, flax, mohair, or silk materials, shall, for his own profit, and without consent of the master, dye any of the same, whether wrought or unwrought; he shall for the first offence forfeit 10s., for the second offence 20s., and for every subsequent offence 40s.: Or if any person shall procure any such materials to be dyed by any such journeyman, servant, or apprentice, without consent of the master, he shall forfeit for the first offence 5s., for the second offence 20s., and for every subsequent offence 4l.; to be recovered as aforesaid before two justices, on the oath of one witness, to the use of the informer, and in case of nonpayment on conviction, the offender to be committed to the common gaol or house of correction for any time not exceeding one month. *Id.* f. 17.

Unlawful com-
binations.

And all contracts or agreements, and all bye-laws, rules, and orders made in any unlawful clubs and societies by any persons employed in any woollen manufactures, or in the making of felts or hats, or in any manufacture of silk, mohair, fur, hemp, flax, linen, cotton, fustian, iron, or leather, or in any manufactures made up of wool, fur, hemp, flax, cotton, mohair, or silk, or any of the said materials mixed one with another, for regulating any of the said trades, or for settling the prices of goods, or for advancing their wages, or for lessening their usual hours of work, shall be void: And if any such person shall be concerned in any such combination, he shall on conviction in three calendar months, on the oath of one witness, before two justices, be committed to the house of correction, to be kept to hard labour, or to the common gaol, not exceeding three months. And if any person shall assault or abuse any master or other person concerned in any of the said manufactures, whereby he shall receive any bodily hurt, for not complying with any such illegal bye-laws, rules, or orders, or shall write or cause to be written or knowingly send or cause to be sent any letter, writing, or message, threatening any harm to any such person, or threatening to burn pull down or destroy any of his houses, or cut down any of his trees, or to maim or kill any of his cattle, for not complying with any demands of his workmen, or for not conforming to any such illegal bye-laws, rules, or orders, he shall, on conviction by indictment, in 12 calendar months, be guilty of felony, and transported for seven years. 22 G. 2. c. 27. f. 12.

Wages to be
paid in money.

The master shall pay his workmen in money and not otherwise, and shall not make any deduction on account of any goods sold or delivered previous to the agreement: And for the

the more easy recovering the said wages, two justices upon complaint (in three months, 13 G. 3. c. 23.) shall summon the party offending, and for non-payment shall issue their warrant to levy the same by distress; and for want of sufficient distress, shall commit the offender to gaol for six months, or until he shall pay or give full satisfaction for the same to the good liking of the party grieved. And every person paying the same otherwise than in money shall forfeit 10l. half to the informer, and half to the party grieved, by distress as aforesaid.

Generally, in order to recover the penalties on these acts, one justice, on complaint to him on oath, may issue his warrant for apprehending the person accused, and bringing him before two justices; who shall proceed to hear and determine the offence. And any inhabitant of the parish, township, or place, where the offence shall be committed, shall be deemed a competent witness, notwithstanding his being an inhabitant there. 17 G. 3. c. 56. s. 18, 19.

Recovering penalties.

The conviction shall be written on parchment in this or the like form; *Be it remembered, That on the ——— day of ——— in the year of our Lord ——— A. B. was convicted before us ——— of his majesty's justices of the peace in and for the said county of ——— (or as the case shall be) of ——— [Here specify the offence, and when and where committed.] Given under our hands and seals the day and year first above written. s. 21.*

Conviction.

If any person shall think himself aggrieved by any order or judgment of the two justices, he may appeal (and at the time of the conviction the justices shall make known to him his right to appeal) to the next general or general quarter sessions; such person at the time of the conviction giving to the justices notice in writing of his intention to appeal, and entering into recognizance with sufficient sureties to try the appeal and to abide the judgment of and pay such costs as shall be awarded by the court: But if he shall not at the time of giving notice enter into such recognizance, the justices shall commit him to the house of correction or other public prison until the sessions, unless such recognizance shall be sooner entered into. And the justices at such sessions, upon determining the appeal, may award costs to either party. And if the judgment be confirmed, the appellant shall within 48 hours suffer such corporal punishment as was directed to be inflicted upon him for the offence; or shall immediately pay the sum which he shall have been adjudged to forfeit, together with the costs of the appeal; or in default of such payment shall be committed to the common gaol, or house of correction, in the same manner, and for the same time, to be computed from the affirmance of the conviction, as shall be directed

Appeal.

directed by the original judgment, unless he hath been imprisoned under the original judgment, in which case the time for which he shall have been so confined shall be included in the order of confirmation. *f. 20.*

Conviction to
be filed.

And the conviction shall be certified to the next sessions, there to be filed amongst the records. And no proceeding hereupon shall be quashed for want of form, nor removeable by *certiorari* into the court of king's bench. *f. 22.*

False reeling of
Yarn.

By the 14 G. 3. c. 44. If any person shall reel false or short yarn, and shall be thereof convicted by the oath of the owner of the yarn or of one witness, or by confession, before one justice where the offence was committed, or the offender shall reside; (he) shall, for the first offence, forfeit not exceeding 20s. nor less than 5s.; for the second offence, not exceeding 5l. nor less than 40s.; and for the third and every other offence, he shall be committed to the house of correction or other public prison, to be kept to hard labour for one calendar month, and be once publicly whipped at the market town nearest to the place where the offence was committed, on a market day. All which forfeitures shall go to the party aggrieved. *f. 2.*

Conviction.

And the conviction shall be in this form; *Be it remembered that on the ——— day of ———, in the year of our Lord ——— A. B. is convicted before me ———, one of his majesty's justices of the peace for ———* [specifying the offence, and the time and place when and where committed, and also specifying that it is the first, second, or third offence against this act.] *Given under my hand and seal, the day and year first abovementioned.*

Which conviction shall be written on parchment, and filed at the next sessions. *f. 3.*

Appeal.

If any person so convicted shall be desirous of appealing to the next sessions, he may, at the time of the conviction, enter into recognizance, conditioned to try such appeal abide the order of and pay such costs as shall be adjudged by the justices at such sessions. And the justices there shall take cognizance of the appeal, and may affirm such conviction, and award such costs as they shall think proper; and if not paid according to the order of the said justices, the same may be recovered by distress and sale of the goods of the person who ought to pay the same, by warrant of one justice where such person shall reside; for want of distress, to be committed to the common gaol for three calendar months.—And no proceedings on this act shall be quashed for want of form, nor removed by *certiorari* or other process. *f. 5.*

[By the oath of the owner of the yarn] This is a singular instance of a conviction on the oath of a person doubly interested, namely, both as owner of the goods, and as intitled to the whole forfeiture.

(He) *shall for the first offence*] The word *be* is wanting in the act, to make up the sense.

May *affirm* such conviction] By the word *affirm* being mentioned, and not the word *quash* also, it may be doubted whether the sessions hath hereby sufficient power given to *quash* the conviction.

By the 15 G. 3. c. 14. If the said pecuniary penalties for reeling false or short yarn, together with the costs and charges attending the prosecution, shall not be paid according to the order of such justice, the same shall be levied by distress, together with the costs and charges of distress and sale; and if goods sufficient cannot be found, such justice shall commit the offender to the common gaol or house of correction for one calendar month, unless such penalties and charges shall be sooner paid.—And persons aggrieved on this act may appeal to the next sessions, who shall finally hear and determine the matter of complaint.

Recovering penalties.

By the 22 G. 3. c. 40. If any person shall, by day or night, break into any house or shop, with intent to cut and destroy any linen or cotton, or linen or cotton mixed with any other materials in the loom, or any warp or shuttle, tools, tackle, and utensils, prepared for or employed in the making thereof; or shall break and destroy any tools, tackle, or utensils used in the carding, spinning, weaving, or making any such linen or cotton goods or manufactures, he shall be guilty of felony without benefit of clergy. *s. 3.*

Breaking into a house to destroy materials in the loom.

Finally, with respect to the several counties of *York, Lancashire* and *Chester*, additional regulations are made by the 17 G. 3. c. 11., which enacts that committees of the manufactures from time to time shall appoint inspectors, who shall examine the reels and yarn, and cause offenders to be convicted; and for the expences thereof a fund shall be established out of the drawbacks of the duty on soap allowed to the manufacturers for soap consumed in the woollen manufacture. Which regulations being of considerable length, and only concerning the said three counties, it is thought proper to refer to the statute itself.

Regulations in York, Lancashire, and Chester.

Disputes between masters and their workmen in the cotton manufacture; by 39 & 40 G. 3. c. 90; and by the 44 G. 3. c. 87.

By 39 & 40 G. 3. c. 90. after reciting that great abuses have subsisted in the trade of cotton weaving, and that it would be an advantage to the trade that a cheap and summary mode might be established for settling all disputes, It is enacted that in all cases which may arise where the masters and workmen cannot agree respecting the price to be paid for work

Differences to be settled by arbitration.

work done, whether such dispute shall happen between them respecting the reduction or advance of wages, or any injury or damage done, or alleged to have been done by the workmen to the work, or respecting any delay or supposed delay in finishing the work, or the not finishing the same in a good and workman-like manner; and where the workmen are to be employed in working any new pattern which shall require them to purchase any new implements of manufacture for the working thereof; and the masters and workmen cannot agree upon the compensation to be made to such workmen in respect thereof: and also respecting the length of pieces of cotton goods, or the wages to be paid for such goods made of any greater length; and respecting the manufacture of cravats, shawls, polycat, romal, and other handkerchiefs, and the number to be contained in one piece, and the wages to be paid for the same; and all disputes and differences arising in the said trade which cannot be mutually settled between them; any such master or workman may demand to have an arbitration or reference of such dispute, and each of them may nominate an arbitrator to determine such dispute, and such arbitrators having accepted such office may summon before them and examine upon oath (P.) the parties and their witnesses, (which oath they are authorized to administer,) and forthwith to proceed to hear and determine the matter in dispute, and their award shall be final and conclusive; but in case such arbitrators cannot agree, and do not make and sign their award (R.) within three days after signing the submission, they shall forthwith go before the nearest justice and state to him the points in difference, who shall hear and determine the same, which determination shall be made and signed within three days after the time hereby allowed such arbitrators to make their award, which shall be final and conclusive. And if either of the parties or their witnesses, having been duly summoned, shall refuse or neglect to attend such arbitrators at the time and place appointed, one justice, on proof on oath of the service of such summons, either personally or by leaving the same at his last or usual place of abode, and also upon the like proof of the neglect or refusal of such person to attend such arbitrators, (unless reasonable excuse be made to the satisfaction of such justice,) may issue his warrant to apprehend and bring before him such person, and if he shall still refuse to be examined or to give his testimony before such arbitrators, he shall be by such justices committed (N. O.) to the house of correction without bail, until he shall submit to be examined and give his evidence before the arbitrators. *f. 1.*

Provided always, that if the parties who signed any submission or arbitration think it expedient to extend the time hereby limited for making the award or umpirage, they may extend

If such arbitrators cannot agree, they are to go before a justice whose determination shall be final.

Parties or witnesses refusing to attend such arbitrators may be committed by a justice.

Time for making the award may be extended.

extend the same accordingly by indorsement on the back of such submission, which shall be signed by both parties in the presence of a witness. *f. 2.*

Provided also, that such submission and award made thereon may be written at the foot of such submission, upon unstamped paper, and in the forms (Q. R.) *f. 3.*

And there shall be two parts of such submission to arbitration, one for each party. *f. 4.*

In every dispute where an arbitration shall be demanded, and the submission thereto signed, and an arbitrator therein named by either party, and the other shall refuse or neglect to sign the said submission, and appoint his arbitrator; or if after making such award or umpirage either party shall refuse to submit thereto for two days next after the signing such submission in manner aforesaid, or making such award or umpirage respectively as aforesaid, he shall forfeit and pay to the party who demanded such arbitration, and signed such submission, and named his arbitrator as aforesaid, or in whose favour such award and umpirage shall be made, the sum of 10*l.* to be recovered in a summary way before one justice, and the conviction may be made upon the oath of one witness; and in case such penalty shall not be forthwith paid, such justice shall levy the same by distress and sale, together with the costs attending such distress and sale; and in case no sufficient distress can be had, such justice shall commit such offender to the common gaol or house of correction, without bail, for any time not exceeding three nor less than two calendar months. *f. 5.*

And the conviction may be drawn up in the forms (Q.) or to the like effect, and shall be fairly written on parchment and filed at the next sessions. *f. 6.*

And any person convicted as aforesaid, may appeal to the next sessions, giving immediate notice thereof, and entering into recognizance, himself in 10*l.* with two sureties in 5*l.* each, to appear and prosecute such appeal with effect; and such session may finally hear and determine the same, and make such order and award such costs as to them shall seem meet; and no *certiorari* shall be allowed to remove any such proceedings. *f. 7.*

Provided, that no action shall be brought against any arbitrator, justice, constable, or other person whomsoever for any thing done or committed in the execution of this act, unless brought within six calendar months. *f. 8.*

Provided also, that no justice, being also a master cotton weaver or manufacturer, shall act as a justice under this act. *f. 10.*

Provided, that nothing herein shall repeal any provisions made by the acts of 1 Ann. *f. 2. c. 18.* 13 G. 2. *c. 8.* 22 G. 2. *c. 27.*; (and see 23 G. 2. *c. 13. f. 9.*): and

Stamps not to be used.

Duplicates need to be made.

Either party refusing to appoint an arbitrator, or to submit to the award, to forfeit 10*l.*

To be recovered by one justice.

Conviction.

Appeal.

Certiorari.

Limitation of actions.

Justices being cotton manufacturers not to act.

Nothing herein to repeal certain acts specified.

17 G. 3. c. 56. or in any other act, so far as they provide penalties on workmen, or afford remedies to masters, except where such remedies relate to wages. *f.* 11.

But now, by 44 G. 3. c. 87. *f.* 1. so much of 39 and 40 G. 3. c. 90. as relates to settling all disputes that may arise between the masters and workmen engaged in the cotton manufacture in respect of such manufacture, by arbitration, is repealed.

And by *f.* 2. it is enacted, that in all cases where an arbitration may be demanded by the said 39 and 40 G. 3. c. 90. where the party complaining and the party complained of shall come before or agree, by any writing under their hand, to abide by the determination of any justice, or magistrate of any county, city, or place within which the parties reside, it shall be lawful for the justice or magistrate to hear and finally determine the matter in dispute: but if such parties shall not come before, or so agree, then such justice or magistrate shall, on complaint made before him, and proof by the examination of the party complaining, that application has been made to the person against whom such cause of complaint has arisen, or his agent, if such dispute has arisen with such agent, to settle such dispute, and that it has not been settled upon complaint being made, or where the dispute relates to a bad warp, such cause of complaint shall not be done away within 48 hours after such application, to summon before him such person or agent, on some day not exceeding three days, exclusive of Sunday, before the making such complaint, giving notice to the person complaining of the time and place appointed in such summons for the attendance of such person or agent: and if at such time and place the person so summoned shall not appear by himself or by some one on his behalf, to settle such dispute, or appearing shall not do away such cause of complaint, then such justice shall at the request of either party nominate arbitrators for settling the matter in dispute, and shall propose at such meeting not less than four nor more than six persons, one half of whom shall be master manufacturers, or agents or foremen of some master manufacturer, and the other half of whom shall be weavers in such manufacture; (such respective persons residing in or near the place where the dispute has arisen :) out of which master manufacturers, agents, or foremen, the master engaged in such dispute or his agent shall chuse one, and out of which weavers so proposed, the weaver or his agent shall chuse another, who shall have full power to hear and finally determine the dispute; and the said justice shall thereupon appoint a meeting according to the directions of this act, and also a day for the meeting; notice of which nomination, and day of meeting shall be thereupon
given

given to the arbitrators, and to any party to such dispute who may have attended before the said justice: which appointment shall be by him certified as follows, I. A. B. *one of the justices of the peace acting for* ——— *do hereby certify that* C. D. *and* E. F. *are duly nominated referees to settle the matters in difference between* G. H. *of* ——— *master manufacturer (or agent of, as the case may be,) and* I. K. *of* ——— *weaver, pursuant to an act of parliament passed in the 44th year of the reign of his present majesty, and that the said referees are hereby directed to meet at* ——— *on* ——— *the* ——— *day of* ——— *at* ——— *of the clock.* A. B.

And the person so appointed shall hear and examine the parties and their witnesses, and determine such dispute within two days after such nomination, exclusive of *Sundays*: and the determination of such arbitrators shall be final and conclusive.

By *f. 3.* It is provided that if the complainant shall not attend or send some one on his behalf, at the time and place appointed by the justice for the purpose of naming such persons as aforesaid, he shall not be entitled to the benefit of this act: And if the person against whom the complaint is made shall not attend, nor send some one on his behalf, the justice shall nominate for him a person out of those so proposed as aforesaid.

By *f. 4.* If the persons nominated refuse or delay accepting the arbitration, or accepting shall not act, the justice shall name another or other persons of the description aforesaid, out of whom the parties to such dispute shall forthwith respectively nominate arbitrators according to this act: And in every case of a second nomination, the arbitrators shall meet within 24 hours after the application for the same, at the same place at which the meeting for the first arbitrators was appointed.

By *f. 5.* When the arbitrators cannot agree they shall forthwith go before the justice or justices by whom they were appointed: And in case of his absence or indisposition, before any other justice for the same county, riding, &c. or place, nearest the place at which the arbitrators met to settle the dispute: And if either arbitrator shall neglect or refuse to go before such justice, as herein directed, the justice after summoning the arbitrators to attend him may determine the dispute upon the statement of either of the arbitrators who shall come before him.

And by *f. 6.* Where a second arbitrator shall be so appointed, and shall not attend as appointed, the other arbitrator may at such time and place proceed by himself to the hearing and determining of the said matters in dispute, and in such case his award shall be final and conclusive as to all matters in dispute submitted to him.

By *f. 7.* It is provided that all complaints by the weaver, as to bad materials, shall be made within three weeks after his receiving the same, and all complaints arising from any other cause shall be made within three days after such cause of complaint shall arise; and that it shall not be allowable to any manufacturer who shall have received into his possession any cotton cloth made by himself, or his clerk or foreman, afterwards make any complaint on account of work so received.

By *f. 8.* Provided that where complaints are made respecting bad warps or utensils by workmen, the place of meeting of referees shall be at or as near as may be to the place or places where the work has been given out.

And by *f. 9.* If either party shall refuse to fulfil the award to be made under this act, for 48 hours after it shall have been made and reduced into writing in the form in the schedule to this act annexed, or to the like effect, he shall pay to the party whose favour such award shall have been made, the sum of 10*l.* to be recovered as the penalties in the 39 and 40 G. 3. c. 90. may be recovered.

By *f. 10.* It is enacted that with every piece of work given out by the manufacturer to a workman to be done, there shall (if required by the workman to whom the same shall be given) be delivered a note or ticket, signed by the person delivering the same or his agents, stating the quantity of the materials delivered out, and the nature of the work to be performed, and the price agreed upon for the executing such work in a workmanlike manner; and which said note or ticket, in the event of dispute between the manufacturer and workmen, shall be evidence of all matters mentioned therein or respecting the same.

And by *f. 11.* A duplicate of every such note shall be made and kept by the master or agent delivering the same; which duplicate shall be evidence of all the matters therein contained, in case the workman shall not produce to the arbitrators or the said justice, as the case may be, the said note so delivered to him with the said work.

And by *f. 12.* Every master or agent neglecting or refusing to give a note or ticket in the manner hereby prescribed, when required so to do, shall forfeit not exceeding 40*s.* nor less than 20*s.* for each failure or neglect to any person who shall sue for the same, to be recovered and applied in the same manner as other penalties may by the said 39 and 40 G. 3. No appeal against any conviction for such penalty.

By *f. 13.* Where any work shall have been delivered by the agent or servant of any master, to be when finished delivered to such agents or servants, and also where two or more shall carry on the business of such manufacture as partners, in every such case, the like proceedings may be had against such

agent, servant, or any partner, and shall be as effectual as if the same had been had and made against the principal or all the partners; and all the said persons respectively shall obey the award made thereupon, and such orders as shall be made by the said justice respecting the matters in dispute, and shall be subject to the same penalties for refusing or delaying to abide by the same, as if the proceedings had been had against the principal or all the partners.

By *f. 14.* It is also provided that the assignees of masters becoming bankrupts, shall be liable to proceedings under this act, the same as the masters would have been: the sums awarded, to be paid out of the estates of the bankrupts.

By *f. 15.* It is enacted that where a married woman or an infant is the complainant the proceedings shall be in the name of the husband and father, or, if dead, of the mother; or, if both parents be dead, of any of the infant's kindred, and of the surety or sureties in any indenture of apprenticeship if the infant be an apprentice.

By *f. 16.* All costs, time and expences, attending the applications to justices to be made under this act, and of the arbitration pursuant thereon, shall be settled by the arbitrator, and where the dispute shall be determined by any justice, pursuant to the 39 and 40 G. 3., then the costs &c. aforesaid, shall be settled by such justice. And where the arbitrators appointed as aforesaid cannot agree as to the costs &c. to be allowed, the same shall be settled by the justice by whom the said arbitrators were named, and in case of his absence or indisposition, by any justice for the same county, riding &c. nearest to the place at which the arbitrators met to settle the dispute.

By *f. 17.* The following and no higher fees shall be taken for any proceeding under this act: viz.

	£.	s.	d.
To the clerk of the justice or justices for each summons	0	0	6
For every oath or affirmation	0	0	6
For drawing and entering the order	0	0	6
For every warrant	0	1	0
For every conviction	0	1	0
To the constable or other peace officer for service of summons or order	0	0	6
For executing warrant of distress and sale of goods	0	1	6
For custody of goods distrained, <i>per day</i>	0	0	4
For every mile he shall travel	0	0	4

And a table of fees, signed by the clerk to such justice or justices shall be hung up in every place where any general or quarter sessions or petty sessions shall be held.

By *f. 11.* No proceedings under this act to be set aside for want of form.

By s. 19. In place of the forms set down in the schedule to the 39 & 40 G. 3. c. 90. those in the schedule to this act shall be used ; and all provisions of that act which are contrary to this, or for which others are by this substituted, are repealed ; but the same shall in other respects be in full force.

Schedule to which this act refers.

Form of the Award to be written at the foot or on the back of the order of the justices appointing the arbitrators.

WE I. K. and L. M. (name and describe the referee) the referees appointed to settle the dispute between the parties within named, (or, I, I. K. the referee appointed on the part of the within named C. D.) having, notwithstanding the notice, failed to attend on * I, N. O. the justice (as the case may be), do hereby judge and determine, that (here set forth the determination to which the referees, or referee, or justice, as the case may be, shall subscribe their names.)

Form of Indorsement, extending the time limited for making the award, to be written on the foot or the back of the order of the justice appointing the arbitrators.

WE A. B. and C. D. parties to the within arbitration do hereby agree to extend the same to the ——— day of ——— inclusive. Witness our hands this ———

Witness A. B.
C. D.

Form of Acknowledgement of fulfilment of the award, to be written on the foot or on the back thereof.

I A. B. do hereby acknowledge that the above award has been fulfilled by C. D. who is hereby discharged of the same. Witness my hand this ——— day of ———. Witness A. B.

Form of Conviction for refusing or delaying to fulfil the award.

BE it remembered that on the ——— day of ——— in the ——— year of his majesty's reign, and in the year of our Lord ——— A. B. is convicted before me (or, name the justices of the peace for the county, riding, division, city, or

* [Note.—Here seems some mistake in the act : I. must clearly be the antecedent relative to N. O., and therefore there should have been a blank after the words *attend on*, for the time and place of attendance.]

place of) *that the said A. B. hath refused or delayed to fulfil the award within the time limited, contrary to the statute made in the 4th year of His present majesty, entitled, an act to amend an act passed in the 39th and 40th years of his present majesty, entitled, an act for settling disputes that may arise between masters and workmen engaged in the cotton manufacture in that part of Great Britain called England, and I (or, we) the said justice (or, justices) do hereby adjudge and determine the said A. B. for the said offence to forfeit and lose the sum of ——— of lawful money of Great Britain, and do order the same to be forthwith paid by him (her, or them, as the case may be).*

XVIII. Disputes between masters and their workmen, in the bone and thread lace manufactory ; by the 19 G. 3. c. 49.

All lace merchants and dealers in lace, and all other persons who shall employ any person or persons in the making of bone or thread lace, or who shall buy any bone or thread lace of the maker thereof, shall pay such persons for their labour and for all the lace bought of them in money only, and not with goods or by way of truck, or in any other manner, either in the whole or in part ; on pain of 10l. to the party grieved ; by warrant of one justice by distress ; for want of sufficient distress, to be committed to the common gaol or house of correction for six calendar months, unless such penalty and the charges attending the recovery thereof be sooner paid. 19 G. 3. c. 49. s. 1, 2.

Wages to be paid in money.

And if any money shall be owing to any person employed in the making of any bone or thread lace for his labour, or for the purchase of any such lace, the same may be recovered in like manner as the aforesaid penalty. s. 3.

How to be recovered.

Persons aggrieved may appeal to any sessions to be holden within six months after the cause of complaint shall arise, giving 14 days notice ; and the sessions shall hear and finally determine the same, and may give costs to either party, and levy the same by distress. s. 4.

Appeal.

XIX. Disputes between masters and their workmen in the manufactures of clocks and watches ; by 27 G. 2. c. 7.

If any person employed by any one practising the trade of clock-making or watch-making, or any part or branch thereof, to make, finish, alter, repair, or clean any clock, watch, or part thereof ; or intrusted by any person practising the said trade or trades, with any gold, silver, or other metal or material, to be or that shall be in the whole or in part wrought

Workmen embezzling materials put out to work.

or manufactured for any part of a clock or watch, or any diamond, or other precious stone, to be or that shall be set or fixed in or about any clock or watch; shall purloin, embezzle, secrete, sell, pawn, exchange, or otherwise unlawfully dispose of any clock, watch, gold, silver, or other metal or material, or any part thereof, or any diamond or other precious stone, with which he shall be so intrusted; and shall be thereof convicted by the oath of the owner, or other credible witness, or confession, before one justice where the offence shall be committed or the person so charged shall reside, he shall for the first offence forfeit 20*l.* and if not forthwith paid, the justice shall commit him to the house of correction or other public prison, there to be kept to hard labour for the space of 14 days, unless the forfeiture shall be sooner paid; and if within two days before the expiration of the said 14 days such forfeiture shall not be paid, the justice may order him to be publicly whipped at the market place, or some other public place of the city, town or place, where he shall be committed; and for a second or other subsequent offence, he shall forfeit 40*l.* in like manner; and if not paid forthwith the justice shall commit him as aforesaid, to be kept to hard labour for any time not exceeding three months nor less than one month, unless the forfeiture shall be sooner paid; and if within seven days before the expiration of the time for which he shall be committed the forfeiture shall not be paid, the justice may order him to be whipped in like manner twice or oftener, as to such justice shall appear reasonable.

Persons knowingly receiving the same.

And if any person shall buy, receive, accept or take by way of gift, pawn, pledge, sale or exchange, or in any other manner, of or from any person whomsoever any clock or watch or part thereof, of any gold, silver, or other metal or material as aforesaid, whether the same or any part thereof be or be not wrought or manufactured, or any such diamond or other precious stone, knowing the same to be so purloined or embezzled; he shall, on the like conviction, for the first offence forfeit 20*l.*, and if not forthwith paid the justice shall commit him in like manner, to be kept to hard labour for 14 days, unless the forfeiture shall be sooner paid, and if within two days before the expiration of the said 14 days the said forfeiture shall not be paid, the justice shall order him to be publicly whipped as aforesaid once or oftener, as to such justice shall appear reasonable; and for a second or other subsequent offence, he shall forfeit 40*l.*, and if not forthwith paid, the justice shall commit him as aforesaid, to be kept to hard labour for any time not exceeding three months, nor less than one month, unless the forfeiture shall be sooner paid; and if within seven days before the expiration

nion of the time for which he shall be committed the forfeiture shall not be paid, the justice shall order him to be publicly whipped as aforesaid twice or oftener, as to him shall appear reasonable.

And one justice on complaint to him made upon oath of any offence against this act may issue his warrant for apprehending and bringing before him, or before any other justice of the same place, the person so charged. Power of the justices.

And the conviction shall be in this form :

Middlesex, } *Be it remembered, that on the ——— day of* Conviction.
to wit. } *——— in the ——— year of his majesty's reign,*
A. B. *was convicted before me [or us] ——— of his majesty's*
justices of the peace for the said county of ——— or for the
—— riding (or division) of the said county of ——— or
for the city, liberty, or town of ——— in the said county of
—— (as the case shall be) of purloining, embezzling,
secreting, selling, pawning, exchanging, or unlawfully disposing
of, or of buying, receiving, or taking to pawn (as the case shall
happen to be) ——— (specifying the respective goods, ma-
terials, or effects) the property of C. D. of ——— in the
county of ———. Given under my hand and seal (or our
hands and seals) the day and year aforesaid.

If any person shall think himself aggrieved by the judgment of the justice, he may appeal to the next sessions; in which case the execution of the judgment shall be suspended, the person so convicted entering into a recognizance at the time of the conviction, with two sureties in double the sum adjudged to prosecute the appeal with effect, and to be forthcoming to abide the judgment and determination of the justices in such sessions; and the justices there shall hear and determine the same, and award such costs to either party as to them shall appear just and reasonable; and if the judgment shall be affirmed, the appellant shall immediately pay the sum adjudged, together with such costs as shall by the court be awarded; or in default thereof shall suffer the penalties as for purloining, embezzling, or receiving as aforesaid. Appeal.

The said forfeitures, after satisfaction made thereof to the party injured, together with such costs of prosecution as the justice shall judge reasonable, shall go to the use of the poor where the offender shall reside. Application of the penalties.

And the justice shall cause the conviction to be fairly written upon parchment, and transmitted to the next sessions, there to be filed and kept among the records. Conviction to be filed.

And the same shall not be removed by *certiorari*.

XX. *Disputes between paper-makers and their workmen.*

All contracts between journeymen paper-makers, to advance their wages, void.

By 36 G. 3. c. 111. All contracts, covenants, and agreements, whether in writing or not, which have been made or entered into by any journeymen paper-makers for obtaining an advance of wages, or lessening their usual hours, or quantity of work, or for preventing any person from employing whomsoever he shall think fit, or in any way to affect any person in carrying on the said business, shall be null and void. *f. 1.*

Persons entering into such contracts to be committed.

And if any journeyman paper-maker or other person shall, after the passing of this act (a) enter into, agree unto, or be concerned in making, any contract, covenant or agreement, whether in writing or not, in support of or relative to any such combination as aforesaid, he shall, on conviction on the oath of one witness before one justice where the offence is committed, upon information in writing, within one month, by order of such justice, be committed to the house of correction to hard labour, for any time not exceeding two calendar months. *f. 2.*

Time of work.
186.

The time of working by journeymen at the vat upon all fine, wove, and plate papers, if the master shall so require, shall be half an hour about each post, 20 of which to make a day's work; and every dry worker upon all such fine papers, if required, shall work 12 hours *per day*, allowing one hour thereout for refreshment. *f. 3.*

Entering into combinations to raise wages, &c.

And every journeyman paper-maker, who shall enter into any combination to raise the wages, or to alter the hours or duration of work, or for any other purpose contrary to this act, or who shall by giving money or other means directly or indirectly solicit, intimidate, or endeavour to prevent any unhired journeyman, or other person wanting employment in the manufacturing of paper, from hiring; or shall decoy, solicit, intimidate, influence or prevail, or endeavour to prevail on any person hired or employed in such manufacture, to quit his service; or shall proscribe, hinder or prevent any master in such art or mystery from employing whomsoever he shall think proper, or being retained or employed shall refuse to work with any person which such master shall think proper to employ, and shall be convicted thereof on the oath of one witness before one justice, shall be committed to the house of correction to hard labour, for not exceeding two calendar months. *f. 4.*

Attending or soliciting others to attend unlawful meetings.

If any person (whether employed in the said trade or not) shall attend any meeting or combination herein declared

illegal, or shall summons give notice to or call upon any journeyman paper-maker, or other person employed in the said trade, to attend thereat; or who shall collect, demand, ask or receive any money from any such person for any of the above purposes; or shall persuade, entice, inveigle or intimidate any such person to enter into, or be concerned in any such meeting or combination; or to turn out against or quit the service or employ of the paper-maker in whose service he is employed; or if any person shall pay any money, or make or enter into any subscription or contribution towards the support or encouragement of any such illegal meeting or combination; he shall, on conviction before one justice on the oath of one witness, be committed to the common gaol or house of correction, without bail, for not exceeding two calendar months. *f. 5.*

Every offender against this act may equally with other persons be compelled to give evidence as a witness, upon information of the prosecutor or informer; and having given such evidence shall be indemnified from any prosecution relating thereto. *f. 6.*

For the better enforcing the purposes of this act, on complaint on oath to one justice of any offence committed against this act, he may summon the offender and witnesses, and if any one shall not appear upon such summons or offer some reasonable excuse, such justice shall issue his warrant for apprehending such defaulter, and upon the party complained against appearing, or being brought by such warrant, or if he shall not appear such summons being served on him or left at his usual place of abode and proof thereof made on oath, such justice may proceed and examine into and hear and determine the matter of such complaint, and may commit or acquit the person charged. *f. 7.*

If any person summoned as a witness shall not appear at the time and place appointed, and give his evidence, he shall be committed to prison until he shall submit to be examined as aforesaid. *Id.*

And the conviction may be drawn up in the form or to the effect following:

BE it remembered, that on this ——— day of ——— in the ——— year of his majesty's reign, A. O. is convicted before ——— of his majesty's justices of the peace for the said county of ——— [or for the riding or division, city, liberty, town, or place, as the case may be] for ——— and the said ——— do hereby order and adjudge him [or her] to be committed to the house of correction to be kept to hard labour for the space of ——— [or until he or she shall submit to be examined as the case may be], without bail or mainprize. Given under ——— the day and year aforesaid.

Offenders may be admitted evidence.

Justices to summon offenders, and hear and determine offences.

Witnesses not appearing, or refusing to give evidence.

Conviction.

which

which shall be written upon parchment, and transmitted to the next sessions, to be there filed and kept amongst the records. *f. 8.*

Certiorari.

No *certiorari* shall be granted to remove such conviction or other proceeding in pursuance of this act. *Id.*

Justices may
issue warrants in
lieu of sum-
monses.

And such justice where any information is made upon oath as aforesaid may issue his warrant for the apprehending and bringing before him or any other justice any such offender, without any previous summons having been issued, and in lieu thereof. *f. 9.*

Appeal.

Provided that if any person shall think himself aggrieved by the judgment of any such justice, he may appeal at the time of such conviction to the next session, in which case the execution of such judgment shall be suspended on his then entering into recognizance with two sufficient sureties in 20*l.* upon condition to prosecute such appeal, and to abide the judgment of such sessions, and to pay such costs as shall be awarded, which recognizance such justice is required to take; and such sessions, upon receiving such conviction drawn up in the form aforesaid, may hear and finally determine the same, and award such costs to be paid by either party as they shall think just. And if the judgment of such justice be affirmed, such appellant shall immediately pay such costs as the sessions shall award for defraying the expences of the defendant; and shall be committed to the house of correction to hard labour, or common gaol, for two calendar months, or any less time mentioned in such conviction, without bail, and until such costs are paid. *f. 8. 10.*

XXI. *Disputes between masters and servants in husbandry, artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers; by the 20 G. 2. c. 19. & 6 G. 3. c. 25.*

By construction of law upon the statute of the 5 *El.* the justices had a power of compelling the payment of the wages which they had rated and assessed; but that statute being deficient in two material points, to wit, in extending only to such wages as should be rated, and to servants in husbandry only; and moreover there being therein (as hath been observed) no power to admit the servant's oath in evidence; therefore by the 20 *G. 2. c. 19.* it is enacted as follows;

Disputes may be
determined by
one justice on
complaint of the
servant.

All complaints, differences, and disputes between masters or mistresses and servants in husbandry hired for a year [or for a less time, 31 *G. 2. c. 11.*]; or between masters and mistresses and artificers, handicraftsmen, miners, colliers, keelmen, pitmen, glassmen, potters, and other labourers, employed for any certain time or in any other manner, shall be determined

(A)

(A) by one justice, where the master or mistress shall inhabit, although no rate or assessment of wages has been made that year; which justice shall (B) examine on oath any such servant or other the said persons, or any other witness touching such complaint, and make such order (C) for payment of wages as to him shall seem just and reasonable, provided that the sum in question do not exceed 10l. with regard to any servant, nor 5l. with regard to any other persons before mentioned; and in case of non-payment for 21 days, such justice may issue his warrant to levy the same by distress (D). *f. 1.*

And by the said statute, such justice on application or complaint on oath by any master, mistress or employer (E), against any such servant, artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter or labourer, concerning any misdemeanor, miscarriage, or ill behaviour in such his service or employment, may hear and determine the same (F), and punish the offender by commitment (G) to the house of correction, there to remain and be corrected, and held to hard labour not exceeding one calendar month, or otherwise by abating some part of his wages (H), or by discharging (I) such servant or other the said persons from their service or employment. *f. 2.*

Master complaining against the servant.

And in like manner, such justice, on complaint or application on oath by any such servant (K), artificer, handicraftsman, miner, collier, keelman, pitman, glassman, potter or other labourer, against such master, mistress or employer, concerning any misuse, refusal of necessary provision, cruelty or other ill treatment, may summon (L) such master, mistress, or employer, to appear before him at a reasonable time to be prefixed in such summons; and he shall examine into the matter of such complaint, whether such master mistress or employer shall appear or not, proof being made upon oath of their being duly summoned; and, upon proof thereof made upon oath to his satisfaction, may discharge (M) such servant, or other person aforesaid, from his service and employment, which discharge shall be given under his hand and seal *gratis*. *Id.*

Servant complaining of misuse, &c.

If any person shall think himself aggrieved by such determination, order or warrant, of such justice (except any order of commitment) he may appeal to the next sessions, who may award costs to either party, not exceeding 40s., to be levied by distress, in manner before mentioned. *f. 5.*

Appeal,

And no *certiorari* shall issue to remove any proceedings hereupon. *f. 6.* Provided that nothing herein shall extend to the stannaries in *Devon* and *Cornwall*. *f. 7.*

Certiorari.

It was supposed until a late determination that the words in this statute "and other labourers" meant only labourers in any

Other labourers.

any of the enumerated trades: but in the case of *Lowther v. the Earl of Radnor and Eyre*, *M. 47 G. 3. B. R.* they received a more enlarged construction. To an action of trespass for taking the plaintiff's goods, the defendants, who were justices of the peace for the county of *Wilts*, justified under this statute, and on the trial a special case was reserved for the opinion of the court of King's Bench. On the 27th of *Nov.* 1804, the defendants made this order; "*Wilts*, to wit, to *T. Lawes* one of the tithing men &c. whereas *J. Sopp* of &c. labourer, hath complained unto *J. T. B.* one of the justices &c. that *G. Lowther* Esq. of &c. refused to pay unto him (*Sopp*) 4l. 13s. 6d. for wages justly due to him for work and labour done by the said *J. Sopp* and by *T. Franklin* in the service of the said *G. Lowther*, by digging and steaming part of a well at &c." The order then stated that Mr. *Lowther* was summoned to answer the complaint, but that he did not appear, and that the defendants as justices examined, at the time and place appointed, into the complaint, and adjudged it to be true, and ordered Mr. *Lowther* to pay the money to *J. Sopp*. Mr. *Lowther* appealed to the *Wiltshire* quarter sessions against this order, where the order was affirmed. After this, the two defendants made a warrant of distress against Mr. *Lowther*, stating all the above facts, under which the plaintiff's goods were taken. The case also stated, that "steaming a well" means lining it with stones and mortar. That *Sopp* had on other occasions been employed by the plaintiff as a labourer in husbandry. That the work was performed under a contract between the plaintiff and *Sopp*, by which the latter undertook to dig the well of a sufficient depth to supply the plaintiff's cattle with water, and for which, when it was deep enough to give a supply of water, he was to receive 2s. per foot. That in the execution of the work *Sopp* was to employ whom he pleased to assist him, but the money was to be paid to *Sopp* alone. And that *Sopp* had before done other work for the plaintiff, for which he was paid by the piece and not by the day. For the plaintiff, it was contended, 1st, that the justices had no jurisdiction to make the original order; 2dly, if they had, that they exceeded their jurisdiction, by ordering the money which had been earned by *Sopp* and *Franklin* to be paid to *Sopp* alone; 3dly, that the plaintiff was not precluded from bringing his action by having appealed to the sessions. In the course of the argument, the court seemed to think that the second point was answered by the facts of the case, the contract having been made by *Sopp* alone, who was at liberty to employ any one under him: But they gave a decided opinion on the third point, that, if there were no original jurisdiction in the magistrates making the order, the appeal would not give it. On the principal question; however,

ever, the court took time to consider of their opinion, which was afterwards delivered by L. *Ellenborough* C. J. The question arising on this special case depends on the terms of the complaint made to the magistrates, as recited in the order of the 27th of *November* 1804; and how far the terms of that complaint bring the complainant within the provisions of the statute 20 G. 2. c. 19. This complaint must be taken to be true in the terms of it; no evidence appearing to have been laid before the magistrates to contradict or vary it, and they having adjudged the same to be true. By this it appears, that *Sopp* was a labourer; for he is described as "*J. Sopp of Shrewton, labourer*;" and that his demand was for wages due to him for work and labour done by himself and another person, *T. Franklin*; by which must be understood, that *Sopp* was employed to do the work either by the day or the piece, and that *Franklin* assisted *Sopp* in the work, under the retainer of *Sopp*, and not of Mr. *Louther*; a common practice with labourers as well in husbandry as in other business. Is *Sopp* then such a labourer as is by the statute 20 G. 2. c. 19. subjected to the jurisdiction of the justices of the peace; and of course entitled to the benefit of that jurisdiction, to recover his wages, being under 5l. by their summary process? The statute 20 G. 2. c. 19. begins by reciting, that "the laws now in being for the better regulation of servants, and for the payment of wages to them, and to artificers, handicraftsmen, and labourers, are insufficient and defective," and for remedy enacts, that all complaints, differences, and disputes, which shall happen and arise between masters or mistresses, and servants in husbandry, who shall be hired for one year or longer, or which shall happen or arise between masters and mistresses and artificers handicraftsmen miners colliers keelmen pitmen glassmen potters and other labourers, employed for any certain time, or in any other manner, shall be heard or determined by one or more justice or justices, although no rate or assessment of wages has been made that year by the justices. The stat. 31 G. 2. c. 11. s. 3. recites the stat. 20 G. 2. c. 19., and that doubts had arisen whether the words, "any labourers employed for any certain time, or in any other manner," extend to servants in husbandry hired for a less time than a year; and for obviating the said doubts enacts that the said act and every clause and matter therein contained shall extend to all servants employed in husbandry, though hired for a less time than a year. In the argument of this case it was contended that *Sopp* did not come within the meaning of the act of parliament 20 G. 2. c. 19., because he was not a servant in husbandry, nor a servant or labourer in any of the trades callings or employments enumerated in that act; and that the words

words used in the act, "other labourers employed for any certain time or in any other manner," meant labourers in any of the enumerated trades only, and not labourers generally. With the first part of the argument, that he is not to be taken as a servant in husbandry, we agree; because he is not stated to be so in the order or complaint; and we cannot intend any thing to give the justices jurisdiction beyond what appears in the order. *Rex v. The inhabitants of Hulcott*, 6 Term. Rep. 583. But we cannot accede to the latter part of the argument, that the operation of the statute is to be confined to labourers in the several enumerated employments. The most obvious construction is not so to confine it; and no case has been stated where the construction has been so confined. The mischief recited in the preamble of the act is general, viz. that the laws in being for the better regulation of servants, and the payment of wages to them, and to artificers, handicraftsmen, and labourers, are insufficient. The remedy provided by the act is, that all differences between masters or mistresses and servants in husbandry, who shall be hired for a year or longer. (These words certainly restrain the operation of the remedy, as to servants, to those in husbandry only, and to such as are hired for a year and longer; the act then proceeds,) "or (differences) which shall happen or arise between masters and mistresses and artificers handicraftsmen miners colliers keelmen pitmen glassmen potters and other labourers employed for any certain time, or in any other manner." Now unless these words, "other labourers," mean to comprehend a different description of persons from those before particularly mentioned, it is difficult to account for their insertion at all; but applying them to other labourers in any other trade or business, the sense will be perfect, and each word will have its meaning. But it may be said, that if such an extensive construction be put on these last words of the sentence, the former part, specifying certain trades, becomes nugatory. That however will not follow; for artificers handicraftsmen miners &c. do not necessarily or properly fall under the denomination of labourers; there being, as I take it, a known distinction between a journeyman in any art, trade or mystery, or other workmen employed in the different branches of it, and a labourer. It does not appear to us to be an objection to this construction, that by other acts of parliament passed subsequent to the 20 G. 2. workmen or labourers in other particular trades or manufactures, or labourers generally, are subjected to certain regulations which appear to clash with some of the provisions of this act; as the stat. 22 G. 2. c. 27. s. 9. for regulating certain manufactures therein mentioned; and the stat. 6 G. 3. c. 25. for better regulating apprentices and persons working under

under contract ; and other statutes which may be pointed out. The true answer seems to be, that at the time of passing one act the legislature has not always had every other act containing provisions bearing on the same subject brought under its consideration. The act now under our consideration appears to have had for its object the affording to certain servants and workmen, and to labourers in general, a speedy easy and cheap mode of recovering their wages when they amount to a small sum ; and to masters an easy method of correcting trifling misdemeanors and ill behaviour in their workmen and labourers. These benefits are by the words of the act extended to servants in husbandry, to workmen in different branches of trade, and to *other labourers* employed for any certain time or in any other manner. The latter words are as general as may be ; and we cannot find any reason in law or policy to say that they do not comprehend the case of *Steph*, as stated in the order of the two magistrates.— And judgment was given for the defendants. 8 *East's Rep.* 113.

In the case of *Ashever v. Brompton*, H. 17 G. 3. The principal question was, whether a maid servant hired for a year, could be discharged by her master three weeks before the end of the year (she being with child) by his own authority, without the intervention of a magistrate, so as to prevent her gaining a settlement. By L. *Mansfield*, the question is, has the master done right or wrong in discharging his servant for this cause ? I think he did *not do wrong*. Shall the master be bound to keep her in his house ? To do so would be *contra bonos mores* : and in a family where there are young persons, both scandalous and dangerous. *Willes*, J. said that this case differs from those of *R. v. Richmond* (a), and *R. v. Jip* (a), where the cause of the discharge of the servant by the master was not reasonable. Here if the master had daughters, it would not be fit that he should keep such a servant, though I think he could not avail himself of the authority of a magistrate ; the jurisdiction of justices being confined to cases in *husbandry*. *Cald.* 11.

[Upon which Mr. *Caldecott* observes, that all that seems established thereby is, that a master may, without the intervention of a magistrate, discharge his servant for *moral turpitude*, even though it be not such for which the servant may be prosecuted at common law. Whether he may or not for any other species of misconduct or general misbehaviour, though there are authorities to shew that he *cannot*, seems, as I have said, from this case not to be fully and absolutely settled,

A maid servant may be discharged by her master for being with child.

(a) *Ante* 4 V. title *Poor*. Settlement by service.

By the general practice throughout the kingdom, and particularly in large towns, this power however warranted is exercised by masters; certainly this question has not of late years been brought before the court for argument, except in the case of *Burrow v. Sayer*, 27 G. 2. But at the sittings at *Westminster* 1773, it arose before L. Mansfield, in the case of *Temple v. Prescott*, where a wet nurse was discharged by her mistress for being insolent and subject to passion, which was insisted to be a reasonable cause to discharge her. But by L. Mansfield, "No person can be judge in his own cause; and this first principle could never be meant to be overturned by any law or usage whatsoever;" and the servant had a verdict for the whole year's wages.)

A servant, father of a bastard child, may be discharged by his master.

Afterwards, 18 G. 3. *R. v. Welford*, John Dyer was hired for a year, and continued in his service till within three weeks of the end of the year, when his master on account of a supposed criminal intimacy with a servant girl then big with child, discharged him, and offered him his whole wages, except 4s. which he insisted to keep back for the three weeks: but the servant refused to allow it, and said he was willing to stay out his year if his master would let him. After he was discharged he went to a justice; but the justice telling him, he could not recover the whole, and having no money to subsist upon, he accepted the money his master had offered him, abating the 4s. for the three weeks: No order in writing was made by any justice to discharge him.—By L. Mansfield: Had the fact of criminality been positively stated, to be sure it would have fallen within the principle of *K. v. Brampton* (a); but as the intention of finding this fact is represented to have been different from the finding, and as there might have been a more complete consent, the case must go down to be restated. The case was restated the following sessions, and the fact of criminality was positively found; and it was also added that this was the case of a servant in husbandry with a view of taking it out of the *R. v. Brampton*. But the case was abandoned, and never came again into *Westminster Hall*. *Cald. Cas.* 57.

But he may not if the crime is committed prior to the service.

But in *R. v. Westmeon*, M. 22 G. 3. It was said by L. Mansfield, that a servant being the father of a bastard child, prior to the master's hiring him, and the crime not committed when in his own house, the master shall not discharge him under this pretence: It is not debauching his servant, or turning his house (as it were) into a brothel. *Cald. Cas.* 129.

Servant becoming intemperate, is

When a magistrate discharges a servant from the service of his master, it must appear on the face of the order that the

(a) See this case more fully, title Poor. Settlement by service.

magistrate had jurisdiction. Thus in the case of *R. v. Hulcot*, H. 36 G. 3. *E. Lamb* was hired by *J. Scrivener* of *Potterspur* from *Michaelmas* 1793 for a year, to work in the dairy, but not to milk the cows; she entered into the service and remained in it till *May* following, when becoming insane her master took her before a magistrate who made the following order; Whereas complaint, &c. before me, &c. by *J. Scrivener*, &c. that *E. Lamb*, who was hired by the said *J. Scrivener* to be his servant from *Michaelmas* 1793 to *Michaelmas* 1794, was taken ill in *February* last, and in consequence thereof is become insane and wholly unfit for service; and whereas the said *E. Lamb* hath been brought before me this day, and doth appear to me to be insane and wholly unfit for service; I do therefore hereby order, in pursuance of the statute in that case made, that she the said *E. Lamb* be discharged, and I do hereby discharge her the said *E. Lamb* from her said service, &c. Ten days after her discharge by the above order, she was removed by the present order from *Potterspur* to *Hulcot*, where she had gained a prior settlement.—The sessions on appeal against the order of removal, being of opinion upon the facts above stated, that the pauper was a servant in husbandry, and there being an order of a magistrate for discharging her from her service, confirmed the order of removal, subject to the opinion of the Court of King's Bench on the above case.—The objection to the order of discharge was, that it did not appear upon the face of it to be a case within the jurisdiction of a magistrate, it not being stated that she was a servant in husbandry; and further, that insanity was not a legal cause for discharging a servant, and was so said by *L. Kenyon* in the case of *R. v. Sutton*.—*L. Kenyon*: I am not prepared to go that length; in that case there had been no application to a magistrate to discharge, and I think that the master could not of his own authority discharge the servant for that cause. It is also said in *Dalt. c. 58*. that sickness is not a good cause for discharging a servant.—*Cur. adv. vult.*—*L. Kenyon* Ch. J. now delivered the opinion of the court.—This case turned on the question, Whether the pauper were legally discharged from her service in *Potterspur*? On the one side it is contended that she was, and that that put an end to the service before the expiration of the year; but on the other side it is objected to the order that it did not appear to be within the jurisdiction of the justice, because it was not stated in the order that she was a servant in husbandry.—Many cases were cited, some one way and some the other; but in the last case, which was decided on the rigid rules of law, it was held that the order was void, because it did not appear on the order itself to be a case within the jurisdiction of the magistrate. We are therefore of opinion

discharged by a justice without saying that she was a servant in husbandry, such discharge is void.

that as it does not appear upon the face of this order that the justice had jurisdiction, the pauper was not legally discharged from her service, and consequently that the order of sessions must be quashed. 6 T.R. 583.

Servant not fulfilling his contract, or being guilty of a misdemeanor.

By the 6 G. 3. c. 25. If any artificer, callico printer, handicraftsman, miner, keelman, pitman, glassman, potter, labourer, or other person, shall contract with any person for any time or term, and shall absent himself from his service before the term of his contract shall be completed, or be guilty of any other misdemeanor it shall be lawful for one justice of the county or place where such offender shall be found, on complaint (E) upon oath to him made by such master or by his steward or agent, to issue his warrant (F) to apprehend such person complained of, and to examine into the nature of the complaint; and if it shall appear to such justice that the person complained of hath not fulfilled his contract, or hath been guilty of any misdemeanor, the said justice shall commit (G) him to the house of correction for the county or place where such justice shall reside, for any time not exceeding three months, nor less than one month. s. 3.

A commitment in execution by a magistrate (on this act or any other act) must state that the party has been *convicted*: setting forth that he was *charged* on oath with the offence, is not sufficient. *R. v. Cooper*. 6 T.R. 509. And see *K. v. Rhodes* (a).

Appeal.

Persons aggrieved by such determination, order or warrant, of the justice (except any order of commitment) may appeal to the next sessions, giving six days notice to the justice and to the parties, and entering into recognizance within three days after such notice before a justice with sufficient surety to try the appeal at and abide the order or judgment of and pay such costs as shall be awarded by the justices at such sessions; which said justices, at their said sessions, on proof of such notice given, and of entering into such recognizance, shall hear and determine the appeal, and give such relief and costs to either party as they shall judge reasonable; and their determination shall be final and conclusive to all parties concerned. 6 G. 3. c. 25. s. 4.

Provided, that nothing herein shall extend to the Stannaries in *Devon* and *Cornwall*.

XXII. Ship masters and their seamen.

By the 2 G. 2. c. 36. It shall not be lawful for any master of a ship bound to parts beyond sea [and by 31 G. 3. c. 39.

Agreements for wages to be made in writing and signed.

(a) See this case, title *Flagrants*: Head, *Whipping or Imprisonment*.

s. 1.

f. 1. the same is extended to masters of vessels trading coastwise,] to carry any seaman or mariner, except his apprentices, to sea, without first agreeing with them for their wages, which agreement shall be made in writing, declaring what wages each seaman is to have respectively during the whole voyage, or for the time he shall ship himself for; and also to express the voyage for which the mariner was shipped, to perform the same, and to be signed by both parties; on pain that the master shall forfeit 5*l.* for every such seaman, to *Greenwich* hospital, to be recovered on oath of one witness, before one justice, who shall issue his warrant to bring such master before him; to be levied by distress; and if no distress can be found, to be committed to gaol till he shall pay the same. f. 1.

Such mariner shall also sign the agreement in three days after he is entered on board. f. 2.

And such mariner entering himself in any vessel trading coastwise shall sign such agreement at the time of his so entering himself. 31 G. 3. c. 39. f. 2.

If any mariner shall desert, or refuse to proceed on the voyage, or shall desert beyond the seas, after he shall have signed such agreement, he shall forfeit to the owner of the ship the wages due to him. 2 G. 2. c. 36. f. 3. 31 G. 3. c. 39. f. 3.

Mariner deserting or refusing to proceed;

If seamen go on shore on the ship's duty, and when the boat is about to return request to be permitted to remain on shore to get some victuals, which is refused, and the boat goes without them; if they afterwards go back to the ship and offer to return to their duty on board, it is not a desertion. And where, by a clause in the ship's articles, the seamen are not entitled to their wages until the voyage be ended, and that voyage was to a foreign port, if the master, for no good or legal cause, dismisses the seaman before the ship's arrival at such port, he may immediately maintain his action for his wages. *Sigard v. Roberts*, 3 *Esp. R.* 71, 2.

If any mariner shall desert, or absent himself, after he hath signed such contract; on application of the master or owner of the ship to one justice, he shall issue his warrant to apprehend such mariner; and if he shall refuse to proceed on the voyage, and shall not give a sufficient reason for such refusal, then he shall be committed to the house of correction, to be kept to hard labour not exceeding 30 days nor less than 14 days. 2 G. 2. c. 36. f. 4. 31 G. 3. c. 39. f. 4.

may be committed.

If any mariner shall absent himself from the ship, without leave of the master, or other officer having charge of such ship, he shall for every day's absence forfeit two days pay to *Greenwich* hospital. 2 G. 2. c. 36. f. 5. 31 G. 3. c. 39. f. 4.

Mariner absenting himself.

And if any mariner not entering into the king's service shall leave the ship before he shall have a discharge in writing by the master, he shall forfeit one month's pay, to be recovered and disposed of as hereafter is mentioned. 2 G. 2. c. 36. f. 6. 31 G. 3. c. 39. f. 4.

His wages to be paid.

The masters shall pay the mariners their wages, if demanded, in 30 days after the ship's being entered at the custom house, [and in vessels trading coastwise in five days, 31 G. 3. c. 39. f. 5.] (unless there be a covenant to the contrary) or at the time they shall be discharged, which shall first happen, deducting the penalties of this act; on pain of paying to each mariner that shall be unpaid 20s. above his wages, to be recovered as the wages. 2 G. 2. c. 36. f. 7. 31 G. 3. c. 39. f. 5.

But no mariner by entering into or signing such agreement shall be deprived of any means for recovery of wages, which he may now use; and the master shall be obliged to produce the contract, and not the mariner. 2 G. 2. c. 36. f. 8. 31 G. 3. c. 39. f. 6.

Penalties to be deducted out of the wages.

And the master shall deduct out of the wages all the penalties of this act, and enter the same in a book, and make oath, if required, to the truth thereof; which book shall be signed by the master and two principal officers of the ship; which forfeitures (except forfeitures of wages to the owner on desertion, or refusing to proceed on the voyage,) shall be applied to *Greenwich* hospital, to be paid to the officer in any port who collects the 6d. a month deducted out of seamen's wages for the use of the hospital; which officer shall have power to administer an oath to such master, touching the truth of such penalties. 2 G. 2. c. 36. f. 9. 31 G. 3. c. 39. f. 7.

Master not paying the same.

The master deducting the said penalties, and not paying them over in three months, shall forfeit treble to the said hospital, to be recovered as any penalties for not duly paying the 6d. a month. 2 G. 2. c. 36. f. 10. 31 G. 3. c. 39. f. 8.

Seamen may enter into the king's service.

Nevertheless, these acts shall not debar any seaman from entering into the king's service, nor shall he forfeit his wages in that case, nor shall such entry be deemed a desertion. 2 G. 2. c. 36. f. 13. 31 G. 3. c. 39. f. 10.

Where the contract for wages is by the voyage and not by the month.

In case of vessels trading coastwise, where the contract for wages shall be by the voyage, and not by the month or other stated time, the penalties shall be ascertained in manner following, viz. if the length of the voyage exceed a lunar month, the forfeiture of one month's pay shall be deemed a forfeiture of a sum of money bearing the same proportion to the whole wages as such month shall bear to the whole time spent in the voyage; and in like manner two days' pay shall bear in proportion to the whole time of the voyage; and if the whole

whole voyage shall not exceed one lunar month, or shall not exceed two days, the said forfeiture shall be deemed a forfeiture of the whole wages. 31 G. 3. c. 39. s. 9.

No agreement made by virtue of this act shall be liable to any stamp-duty. s. 10.

And nothing herein shall extend to vessels trading coastwise under 100 tons burthen. *Id.*

[Note, the said act of 2 G. 2. c. 36. was at first but temporary, and continued from time to time; but by the 2 G. 3. c. 31. it is made perpetual, and extended to his majesty's colonies in *America*; the penalties there, to *Greenwich* hospital, to be paid to such person as the commissioners of the Admiralty shall direct: master deducting and not paying the same in three months, shall forfeit treble to the said hospital.]

Agreements exempt from stamps.

Vessels under 100 tons.

XXIII. *Tailors and their workmen within the bills.*

By the 7 G. 3. c. 13. All contracts by or between journeymen tailors, within the bills, for advancing their wages, or lessening their hours of work, shall be void; and persons entering into such agreement shall on conviction in three months, on oath of one witness, before two justices, be committed to the gaol or house of correction for any time not exceeding two months.

Contract for advancing wages, &c. void.

The sessions from time to time, upon application to them made, shall appoint the wages and hours of work; which all tailors and their workmen shall observe, on pain of imprisonment by such justices for any time not exceeding two months, on prosecution in six days.

Sessions to settle wages, &c.

If any journeyman tailor shall depart from his service before the end of his term, or before his work be finished, or shall refuse to enter into work unless for cause to be allowed by two justices, he shall be sent to the house of correction not exceeding two months.

Leaving work unfinished.

Tailors allowing greater wages than so limited shall forfeit s^d. on conviction in three months, half to the informer, and half to the poor; and journeymen taking greater wages shall be sent to the house of correction not exceeding two months.

Giving or taking more wages than is allowed.

Persons aggrieved by any order of two justices may appeal to the next sessions, giving six days notice; and the sessions may award costs to either party.

Appeal.

By the 8 G. 3. c. 17. Whereas doubts and difficulties have arisen upon the afore said act of 7 G. 3. c. 13. concerning the prosecution of offenders, and many devices have been practised to evade the regulations made by virtue thereof, and it is necessary in some other respects that the said act should be explained and amended, it is therefore

Further regulations respecting wages and time of working.

enacted that the hours of work for servants or journeymen to be employed in the taylor business, within *London* and 5 miles thereof, shall be from 6 in the morning till 7 in the evening, with an interval of one hour only for refreshment. And the wages for the same shall be, any sum not exceeding 2s. 7½d. a day; except during the space of one calendar month from the publication of any order for a general mourning by the earl marshal in the *London Gazette*; and during that space any sum not exceeding 5s. 1½d. *f. 1.*

Giving or receiving greater wages.

If any master shall directly or indirectly give in money or otherwise any more or greater wages than the wages aforesaid, or such other wages as shall from time to time be appointed by virtue of this act; or if any workman within the said limits shall directly or indirectly take in money or otherwise any more or greater wages than as aforesaid; he shall, on information or prosecution within three months, and conviction thereof, before two justices, by confession or oath of one witness, be committed to the house of correction, there to be kept to hard labour, or to the common gaol, for any time not exceeding two months, nor less than 14 days. *f. 2.*

Power of the justices.

And any two justices within the limits aforesaid, upon information on oath made to them by any person whatsoever, that there is reason to suspect that any person hath given or received greater wages than as aforesaid, shall issue their summons requiring any clerk, foreman, apprentice, servant, or other person employed by the person so suspected to have offended, or any other person whose attendance such informant shall think necessary for the purpose of giving evidence, to attend such justices or some other two justices acting for such county or place at a time and place in such summons specified, to testify concerning the premises; and if such person so summoned shall not attend, and proof shall be made of the service of such summons, either personally or by leaving the same at the last or usual place of abode of such person; such two justices, or any other two justices acting for such county or place (unless a reasonable excuse be made for such non-attendance to the satisfaction of such justices) shall issue their warrant to apprehend and bring such person before them, or some other two justices acting for the said county or place, to be examined touching the premises in the said information contained; and if any such person so attending, or being brought before such justices, shall refuse to be examined or give testimony, he shall, by the said justices, be committed to the house of correction until he shall submit to be examined and give testimony as aforesaid. *f. 3.*

To prevent different rates of wages, the mayor aldermen and recorder of *London*, at their general quarter sessions or general

general sessions, shall, from time to time, on application to them made, alter regulate and order the wages for persons employed in the business of making men and women's clothes within *London* and 5 miles thereof, and the hours of work; and within 14 days after making every such order, shall cause the same to be printed and published in such manner as to them shall seem meet, at the reasonable expence of the persons applying for the same. *f. 4.*

Provided always, that advertising such orders of sessions three times in any two daily newspapers in *London* or *Westminster* shall be allowed sufficient notice and publication. *f. 5.*

Provided also, that nothing herein shall extend to regulate the wages or hours of work of persons employed as foremen; or to hinder the paying or receiving other wages (not exceeding 6d. an hour in time of general mourning, and 3d. an hour at any other time) before or after the hours of work limited as aforesaid, so as such overwork be not at any one time less than one hour, nor be done in fraud of the aforesaid regulations. *f. 6.*

Exception as
foremen and
extra hours.

And if any master residing within the limits shall employ any person out of the said limits, with intent to elude this act, and shall give greater wages than aforesaid, he shall forfeit 500l. with costs, half to the king, and half to him that shall sue. *f. 7.*

Persons convicted by the two justices as aforesaid may appeal to the next general quarter sessions or general sessions, giving immediate notice of such appeal, and finding sufficient security to the satisfaction of such justices for being personally present at the said sessions, and for prosecuting the appeal with effect, and abiding by the judgment of the court. And the sessions may award costs to either party. And if the conviction shall be confirmed, the appellant shall be committed to prison for the time specified in the conviction, and until payment of the costs. *f. 8.*

Appeal.

XXIV. Shoemakers and their workmen within the bills.

By the 9 G. c. 27. If any journeyman shoemaker within the bills of mortality shall be accused by his master of purloining any shoes or other wares or materials, one justice where the offence shall be committed or the offender shall inhabit, on oath of such offence, may summon the party or issue his warrant to apprehend him; and if the same is proved before him by confession, or oath of one witness, he shall award satisfaction for damages and charges, and levy the same by distress; and for want of sufficient distress shall cause the offender

Purloining shoes
or materials.

offender to be whipped where the offence was committed : and for a second or other offence, he shall commit him to the house of correction, not exceeding one month, nor less than 14 days.

Receiving.

Every person who shall buy, receive, or take in pawn the same, shall be subject to the same punishment.

Power of the justices.

Two justices, on complaint on oath, may issue their warrant for searching in the day time for goods so purloined, and break open doors ; and every person so hindering such search shall forfeit 10*l.* to him who shall sue in two months ; and if such goods shall be found, they shall restore them to the owner, and cause the offender to make satisfaction for the damages and charges, as aforesaid.

Leaving work unfinished.

Every person retained by one master, who shall suffer himself to be retained by any other before he hath finished his work, shall, on conviction on oath of one witness, before one justice, be sent to the house of correction not exceeding one month.

Appeal.

Persons aggrieved may appeal to the next sessions, giving eight days notice.

XXV. *How far the master is answerable for the servant.*

The master is indictable for a nuisance done by his servant ; as for throwing dirt in the highways. 1 *L. Raym.* 264.

But nevertheless it seemeth, that the servant also is indictable ; for Mr. *Hawkins* says, that a servant is not excused the commission of any crime by the command or coercion of his master. 1 *Haw. c. 1. f.* 14.

If goods be delivered to the servant of a carrier, and the goods are lost, an action lies against the master. *Wood. b. 1. c. 6.*

A servant with a cart ran against another cart wherein was a pipe of sack, and overturned the cart and spoiled the sack ; an action lies against the master. 2 *Salk.* 441.

M. 10 W. Jones v. Hart. A pawnbroker's servant took a pawn ; the pawner came and tendered the money to the servant ; he said he had lost the goods ; upon this the pawner brought an action against the master ; and it was held well, *Id.*

H. 8 G. Mead v. Hammond. The plaintiff, according to the common course of dealing, delivered to the defendant's servant an ingot of gold to assay ; and it not being returned, he brought an action against the master. And *Pratt Ch. J.* directed the jury, that the delivery to the servant was sufficient to maintain the action against the master on proving a subsequent demand and refusal ; so the plaintiff had a verdict. 1 *Str.* 505.

But

But no action lies against a steward, manager or agent, for damage done by the negligence of those employed by him in the service of his principal, but the principal or those actually employed only are liable. In all these cases it seems the action must be brought either against the hand committing the injury, or against the owner for whom the act was done. But if a steward order the act to be done from whence the damage ensues that will vary the case. *Stone & another v. Cartwright.* 6 T. R. 411.

M. 8 G. Cary v. Webster. The defendant was a clerk of the *South Sea* company, and took in payments. The plaintiff paid him 600l. and he paid it over to the company. And by *Pratt Ch. J.* No action in this case lies against the servant. If he had not paid it over, the plaintiff would have had his option, either to charge him or the company; as in the common case of payment to a goldsmith's servant, who doth not carry it to the account of his master, the party hath an election to go against either; he may charge the servant, because till the money is paid over the servant receives it to his use; or he may pass by the servant, and make his demand upon the master, because the payment to the servant is made in confidence of the credit given him by the master. 1 Str. 480.

XXVI. Inticing away a servant.

The remedy now pursued for retaining a servant in the service of another is an action by the old master against the new one, and the servant, or either of them, for damages; but in order to entitle a man to the action, it is as necessary now as when the 35 E. 3. (repealed by 5 Eliz. c. 4.) was in force, that the new master should know of the servant's engagement with the other at the time of his retaining him, or that he should afterwards refuse to restore him upon information or demand. *Id. Faucet v. Pears & ux.* 2 Lev. 63. 1 Leon. 240.

And an action will lie for receiving or continuing to employ the servant of another after notice, without inticing him away. Therefore, where no fault could be imputed to the defendant for taking the party into his service in the first instance, because then he had no notice of such party's prior engagement, yet as soon as he had notice of that fact he ought to have discharged him. A person who contracts with another to do certain work for him is the servant of that other till the work is finished, and no other person can employ such servant to the prejudice of the first master; the very act of giving him employment is affording him the means of keeping out of his former service. 6 *Blake v. Lanyon.* T. R. 111. 223.

E. 14 G. 3. Hart v. Aldridge. On a special verdict, the jury found that the plaintiff, being a shoemaker, employed a journeyman to make up shoes for him, and retained him by the piece, but not for any certain time. This man being hired by another, and leaving his service the work being unfinished, the shoemaker brought his action against the person so hiring him for enticing his servant out of his service. The question was, whether this person be a *servant* of the plaintiff, so that he may maintain an action and recover damages on his being enticed from his service; and whether there be sufficient upon the verdict to entitle the plaintiff to recover. *L. Mansfield* asked, how they defined the word *journeyman*? It was answered, that they apprehended it to mean no more than a man who was out of his time, and was not master. *L. Mansfield* said further, Doth not a journeyman imply the particular relation of *servant* to the man? It is apparently a *service*. The jury have found expressly that he was *hired* by the piece: And this is a sufficient retainer. *Journeyman*, in the original etymology, is a servant for the *day*; in whose service the master hath certainly an interest. Many servants are taken to work by the piece; if otherwise they would often be idle. This case lies upon the circumstance, of his being found a *journeyman*; otherwise it might have been that the master took any who pleased to work for him, to stay as long as he pleased, and go when he pleased. And *Mr. J. Aston* said, Every man is entitled to an action who hath sustained damages by wrong: Therefore if a servant be retained for any special work, and departs from this unfinished, an action will lie against any who seduces him to depart. And the seducer or inticer is much the greater offender. And judgment was given for the plaintiff. *Cowper, 54.*

XXVII. Combinations amongst workmen.

39 G. 3 c. 81.
repealed.

All contracts for
the advance of
wages, &c.
illegal.

By 39 & 40 G. 3. c. 106. the 39 G. 3. c. 81. *for preventing unlawful combinations of workmen is repealed.* And it is enacted that all contracts, covenants, and agreements, whether in writing or not, entered into by any journeymen, manufacturers, or other persons, for obtaining an advance of wages, or for lessening or altering their usual hours or time of working, or decreasing the quantity of work (except any contract made between any master and his workmen on account of his work or service), or for hindering any person from employing whomsoever he may think proper, or for controlling, or any way affecting any person carrying on any manufacture, trade or business, in the conduct or management thereof, shall be illegal, null and void, to all intents and purposes whatsoever. 39 & 40 G. 3. c. 106. s. 1.

No journeyman, workman, or other person, shall make or enter into or be concerned in making or entering into any such contract, covenant, or agreement, as is herein-before declared an illegal contract, covenant, or agreement; and every such person, who shall be guilty of any of the said offences, being thereof convicted on confession, or oath of one witness, before two justices, within three calendar months, shall be committed to gaol for not exceeding three calendar months; or at the discretion of such justices, shall be committed to some house of correction to hard labour for not exceeding two calendar months. *f. 2.*

Workmen guilty of any such offences to be committed.

Every journeyman or workman, or other person, who shall enter into any combination to obtain an advance of wages, or to lessen or alter the hours or duration of the time of working, or to decrease the quantity of work, or for any other purpose contrary to this act; or who shall, by giving money, or by persuasion, solicitation, or intimidation, or any other means, wilfully and maliciously endeavour to prevent any unhired or unemployed workman in any manufacture, trade, or business, or any other person wanting employment therein, from hiring himself to any manufacturer, tradesman, or person conducting any manufacture, trade, or business; or who shall for the purpose of obtaining an advance of wages, or for any other purpose contrary to the provisions of this act, wilfully and maliciously decoy, persuade, solicit, intimidate, influence, or prevail, or attempt to prevail on any journeyman or workman, or other person hired or employed in any such manufacture, trade, or business, to leave the same; or who shall wilfully and maliciously hinder or prevent any manufacturer, tradesman, or other person, from employing any such workman as he shall think proper; or who being hired or employed shall without any just or reasonable cause refuse to work with any other journeyman or workman employed to work therein; and who shall be convicted of any of the offences aforesaid, on confession or the oath of one witness, before two justices, within three calendar months, shall be committed to gaol for not exceeding three calendar months, or otherwise to some house of correction to hard labour for not exceeding two calendar months. *f. 3.*

Workmen entering into combinations for advancing wages, &c.

Every person (whether employed in any such manufacture or not) who shall attend any meeting held for the purpose of entering into any contract, covenant, or agreement hereby declared illegal; or who shall summon, give notice to, call upon, persuade, entice, solicit, or by intimidation or any other means endeavour to induce any journeyman, workman or other person employed in any manufacture, trade, or business, to attend any such meeting; or who shall collect, demand,

Attending, or inducing others to attend illegal meetings.

ask, or receive any money from any such workman or other persons, for any of the purposes aforesaid; or who shall persuade, entice, solicit, or by intimidation or any other means, endeavour to induce any such journeyman workman or other person to enter into or be concerned in any such combination; or who shall pay any money or enter into any subscription or contribution for the support or encouragement of any such illegal meeting or combination; and who shall be convicted thereof, on confession, or on the oath of one witness, before two justices, within three calendar months, shall be committed to gaol for not exceeding three calendar months; or to the house of correction to hard labour for not exceeding two calendar months. *f. 4.*

Contributing to maintain workmen, or inducing them not to work, or collecting money for that purpose.

Every person (whether employed as a workman in any manufacture or not) who shall wilfully give any money as a subscription or contribution for the purpose of paying any expenses incurred by any person acting contrary to this act; or shall by payment of money or other means maintain any workman or other person, or contribute thereto for the purpose of inducing him to refuse to work, or to be employed in any manufacture or business; shall forfeit not exceeding 10*l.* And every such workman or other person who shall receive any money or valuable thing for the purposes aforesaid shall forfeit not exceeding 5*l.* which penalties shall be applied, half to the king, and the other half to the informer and poor, to be equally divided between them. And all such offences shall be heard and determined before two justices in a summary way, and the offender may be convicted on the oath of one witness, and the penalty for such offence shall be fixed by such justices, but not exceeding the several sums herein-before mentioned; and if such penalty shall not be forthwith paid, such justices shall levy the same by distress and sale, together with the costs; and for want of sufficient distress, such offender shall be committed to gaol without bail for not exceeding three nor less than two calendar months; or otherwise to the house of correction to hard labour for not exceeding two calendar months, at the discretion of such justices. *f. 5.*

Contributions for purposes hereby prohibited, forfeited.

And all money heretofore paid or given as a subscription or contribution towards any of the purposes prohibited by this act, and which shall for three calendar months after the 29th July 1800 remain undivided in the hands of any person, or placed out at interest, and all money afterwards paid or given for any of the purposes hereby prohibited shall be forfeited, half to the king, and half to him who shall sue; and the person in whose hands or in whose name the same shall be, or unto whom paid, may be sued for the same as forfeited. *f. 6.*

Every

Every person who shall be liable by virtue of this act to be sued for such money shall be compellable to answer upon oath to any information which shall be preferred against him in any of his majesty's courts; and such person shall not refuse to answer by reason of any penalty which he may be liable to in consequence of any discovery which may be sought thereby. *f. 7.*

Persons liable to be sued for money paid for such purposes are compellable to answer upon oath.

Provided, that upon payment into court of the money paid into such person's hands for any of the prohibited purposes aforesaid, and then remaining in his hands, and upon making a full discovery of the securities upon which such money as shall not be so remaining in his hands shall have been placed out, the person paying such money into court and making such discovery shall be discharged from all penalties so incurred, and from all actions respecting the same, and shall not be liable to any penalty or prosecution in respect of any money which he shall discover to have been paid received or given by any answer to any such information as aforesaid. *f. 8.*

Upon payment of money into court, and making discovery of securities, the party to be discharged from any penalty.

Every person who shall offend against this act may equally with all other persons be compelled to give evidence as a witness on behalf of his majesty, or the informer, upon any information to be made against any other person not being such witness as aforesaid, and in all such cases every person having given his evidence as aforesaid shall be indemnified. *f. 9.*

Offenders compellable to give evidence.

And any justice on complaint on oath may summon the party accused to appear before two justices, and if he shall not appear (on proof on oath of such summons having been served personally, or left at his usual place of abode, provided the same be so left 24 hours at the least before the time of hearing,) such justice or justices shall by warrant apprehend the person so summoned, or such justices may without any previous summons issue their warrant to apprehend such offender; and upon his appearing on such summons, or being brought before them, (or on proof on oath of such person having absconded,) may examine into such complaint, and upon confession, or the oath of one witness, may convict or acquit the person accused. *f. 10.*

Justices may summon offenders, and determine disputes.

The justices before whom any complaint shall be made, at the request in writing of either party, may summon any witness to appear and give evidence at the time and place of hearing, and if he shall not appear, or shew some reasonable excuse, and submit to be examined, may (on proof on oath of the service of such summons personally, or by leaving the same 24 hours before the time of the hearing at his usual place of abode,) commit (N) such person so making default to some prison, without bail, until he shall submit to be examined and give evidence as aforesaid. *f. 11.*

Witnesses.

And

Conviction and commitment.

And the conviction and commitment of an offender shall be drawn up in the form (O and T), or to the like effect. *f. 12.*

Which conviction shall be written on parchment, and transmitted to the next sessions to be filed; and in case any person shall appeal in manner hereafter mentioned, such sessions may hear and determine the same. *f. 13.*

Not to abridge the power of justices given by former acts.

Provided, that nothing herein shall take away any power given to justices by any act now in force touching any combinations of workmen, or for settling any differences between masters and their workmen, or the rating of wages, or the mode or time of working, or the quantity of work to be done, or touching any matter whatsoever also provided for by this act. *f. 14.*

Nor to empower manufacturers to employ workmen contrary to the provisions now in force, without a license from a justice.

Provided also, that this act shall not empower any person carrying on any trade to employ therein any workman contrary to the regulations contained in any statute now in force for carrying on any particular manufacture or trade, or the service of the persons employed therein, without the license and consent in writing of one justice, expressing the reason of granting the same; which license such justice shall grant, when any qualified workman usually employed in such trade shall refuse to work therein for reasonable wages, or to work for any particular person; or by refusing to work for any other cause whatsoever, or by misconducting himself when employed to work, shall in any manner impede or obstruct the ordinary course of such trade, or endeavour to injure the person carrying on the same. *f. 15.*

No master to act as a justice.

Provided also, that no justice being also a master in any particular trade or manufacture, concerning which any offence is charged to have been committed, shall act in the execution hereof. *f. 16.*

All contracts between masters and others for reducing wages, or altering the hours or manner of work, to be void.

And all contracts between masters or other persons for reducing the wages of workmen, or for altering the usual hours of work, or for increasing the quantity of work, shall be void; and every master being thereof convicted by the oath of one witness before two justices, within three calendar months, shall forfeit 20*l.* half to the king, and the other half in equal shares to the informer and the poor; which if not forthwith paid, such justices shall levy the same by distress and sale, together with the costs attending the same, and for want of sufficient distress, such justices shall commit such offender to the common gaol or house of correction for any time not exceeding three nor less than two calendar months. *f. 17.*

Disputes to be settled by arbitration.

And whereas it will be a great advantage to masters and workmen engaged in manufactures, that a cheap and summary mode may be established for settling disputes respecting wages and work, it is enacted that where any masters or workmen cannot

cannot agree respecting the price of work, or any damage done thereto by workmen, or any delay in workmen in finishing work, or not finishing the same in a workman-like manner, or according to the contract, or touching any contract for work or wages; any such master or workman may demand and have an arbitration or reference of the matter in dispute, and each of them may appoint an arbitrator by writing subscribed by him in the presence of, and attested by one witness, in the form (Q), which shall be delivered, personally to the other party, or left at his usual place of abode, requiring him to name an arbitrator on his part within two days, and such arbitrators having accepted such office may summon and examine upon oath the parties and their witnesses (which oath (P) they may administer), and proceed to hear and determine such complaint, and their award shall be final and conclusive: but in case they shall not agree and shall not make and sign their award within three days after signing the submission, either party may require such arbitrators without delay to go before a justice, and to state to him the points in difference between them, who shall examine the parties and their witnesses upon oath if he shall think fit, and hear and finally determine the same, which determination shall be made and signed within three days after the time allowed to the arbitrators. And if either of the parties or their witnesses, having been duly summoned, shall not appear at the time and place appointed; one justice, on proof on oath being made of the service of such summons personally, and also on like proof of their neglecting to appear before such arbitrators, (without reasonable excuse,) may by warrant cause such person to be brought before him, and if he shall still refuse to be examined and give his testimony before such arbitrators, he shall be committed (N) to the house of correction without bail, until he shall submit to be examined, or until the time for making an award shall be expired. *f* 18.

Provided always, that the parties who have signed any such submission may extend the time hereby allowed for making the award or umpirage, by indorsement on the back of such submission signed by both parties in the presence of one witness. *f* 19.

Time for making the award may be extended.

Such submission, award, or umpirage may be drawn up at the foot of such submission upon unstamped paper in the form (R): *f* 20.

Need not be stamped.

And there shall be two parts of every such submission, one for each party. *f* 21.

Duplicates to be made.

And where an arbitration shall be demanded, and the submission hath been signed, and an arbitrator named by either party, and the other party shall refuse or neglect to sign such submission and appoint his arbitrator as aforesaid, he shall, on

Either party refusing to name an arbitrator or to abide by the award, to forfeit 10l.

conviction before two justices, forfeit 10l. half to the king, and half to the poor; which if not forthwith paid may be levied by distress and sale, together with the costs thereof; and for want of sufficient distress, such justices may commit (T) such offender to the common gaol or house of correction, without bail, for not exceeding three nor less than two calendar months: And if either party shall not perform what is directed by such award or umpirage, he shall, on conviction before two justices, be committed to the common gaol or house of correction without bail, until he shall fully perform the same. *f. 22.*

Persons not obliged to attend at more than two arbitrations on one day, nor more than one at a time.

Provided always, that nothing herein shall extend to make any person guilty of any offence in not attending at more than one arbitration at the same time, or more than two in one day. And in case any master shall not be actually resident at the time at any place where his trade or manufacture is carried on, he may authorize any person to act for him in signing submissions, or attending arbitrators or justices touching the matter of any arbitration. *f. 22.*

Appeal.

And if any person shall think himself aggrieved by the judgment of such justice or justices, he may appeal to the next sessions, in which case the execution of such judgment shall be suspended, upon the person convicted immediately entering into recognizance with two sureties, himself in 10l. and such sureties in 5l. each, to prosecute such appeal with effect, and to be forthcoming to abide the judgment of such sessions, and to pay such costs as shall be there awarded, and such sessions shall hear and finally determine the same, and may award costs to either party as to them shall seem reasonable.— And if on appeal such judgment be affirmed, the appellant shall forthwith pay what is mentioned in such conviction, and the costs, and in default of payment, or in case such conviction shall contain a judgment of imprisonment, such appellant shall be immediately committed to the gaol or house of correction according to such conviction, and for the term therein mentioned, without bail, and also until payment of the costs awarded. *f. 23.*

Limitation of actions.

All actions shall be commenced within three calendar months, and the defendant may plead the general issue, and if he recover shall have full costs. *f. 25.*

All agreements, &c. Though a summary form of conviction is given by the 12th section of the act, a conviction against journeymen for entering into an agreement for obtaining an advance of wages, for controlling the master manufacturers, &c. must state what the particular agreement was. And therefore in the case of *R. v. Nield* and others, *E. 45. G. 3. B. R.* the court quashed a conviction, because it only alleged generally "that the defendants were concerned

in the making of and entering into a certain agreement for the purpose of then and there controlling, *W. Borradaile, &c.* 6 *East's Rep.* 417.

A. Complaint of a servant for wages; on the 20 G. 2. c. 19. and 31 G. 2. c. 11.

Westmoreland. **T**HE information and complaint of A. S. late of ———, in the county aforesaid, husbandman, exhibited before me, J. P. esquire, one of his majesty's justices of the peace for the said county, the ——— day of ———, in the year ———, who on his oath saith,

That at Whitsuntide last he was hired by A. M. of ——— aforesaid, in the county aforesaid ———, to be his servant in husbandry for the term of one half year [or as the case shall be] for the wages of ———. That he the said A. S. hath duly performed the said service: and that he the said A. M. refuseth to pay to him the said A. S. the wages justly due unto him for the said service: And thereupon he the said A. S. prayeth that justice may be done, and that the said A. M. may be summoned before me the justice aforesaid to answer unto the said complaint.

Before me
J. P.

A. S.

B. Summons of the master thereupon.

Westmoreland. { To the constable of ——— in the said county.

WHEREAS information and complaint hath been made unto me ———, one of his majesty's justices of the peace in and for the said county, upon the oath of A. S. late of ———, in the said county, husbandman, that at Whitsuntide last he the said A. S. was hired by A. M. of ——— aforesaid, in the county aforesaid ———, to be his servant in husbandry, for the term of ———, for the wages of ———; and that he the said A. S. hath duly performed the said service; and that the said A. M. doth refuse to pay him the said A. S. the wages justly due unto him for the said service; These are therefore to command you forthwith to summon the said A. M. to appear before me at ———, in the said county, on ——— the ——— day of this present month of ———, at the hour of ——— in the afternoon of the same day, to shew cause why the said wages should not be paid. And be you then there to certify what you shall have done in the premises. Given under my hand and seal the ——— day of ——— in the ——— year of the reign of ———.

C. Order for payment of the same.

Westmorland. **W**HEREAS information and complaint hath been made unto me ——— one of his majesty's justices of the peace in and for the said county, upon the oath of A. S. of ——— in the said county, husbandman, that at Whitsuntide last he the said A. S. was hired by A. M. of ———, in the said county, husbandman, to be a servant in husbandry, to and with him the said A. M. for the space of ——— [or, artificer, glassman, pitman, labourer, or otherwise as the case shall be] and that he the said A. S. hath duly performed the said service; and that he the said A. M. doth refuse to pay to him the said A. S. the wages justly due unto him for such service as aforesaid; and whereas the said A. M. having appeared before me, in pursuance of my summons for that purpose, hath not proved to me that the said wages have been duly paid unto him the said A. S. as aforesaid, nor hath shewed to me any just cause why the said wages should not be paid, and hath not paid the same; [or, and whereas it appears to me, upon the oath of A. C. constable of ——— aforesaid, that he the said A. C. by virtue of my precept to him directed did duly summon the said A. M. to appear before me at a certain time and place therein prefixed, to shew cause why the said wages should not be paid; and the said A. M. hath neglected to appear according to the said summons, and hath not shewed any cause as aforesaid] I therefore having duly examined into the truth and matter of the said complaint, and upon due consideration had thereof, do hereby adjudge, determine, and order, that he the said A. M. upon due notice hereof do pay or cause to be paid to him the said A. S. the sum of ———, which appears to me to be just and reasonable to be paid by him the said A. M. to him the said A. S. as and for his wages as aforesaid. Given under my hand and seal the ——— day of ———, in the ——— year of the reign of ———.

D. Warrant of distress for the same.

Westmorland. } To the constable of ———.

WHEREAS A. S. of ———, in the said county, husbandman, hath complained unto me ———, one of his majesty's justices of the peace in and for the said county, that A. M. of ———, in the said county, husbandman, hath refused to pay unto him the said A. S. the wages justly due unto him for service in husbandry truly and faithfully performed by him the said A. S. to him the said A. M. [or, as the case shall be]. And whereas the said A. M. having appeared before me in pursuance of my summons for that purpose, hath not proved to me that the said wages have been paid to him the said A. S. as aforesaid, and hath

bath not shewed any just cause why the same should not be paid [or, and whereas the said A. M. hath been duly summoned by me to shew cause to me why the said wages should not be paid, but he the said A. M. hath neglected to appear according to the said summons, and bath not shewed any cause as aforesaid]. I therefore the said justice, upon due consideration had thereof, on the — day of — now last past, by writing under my hand and seal, did thereupon determine and order, that he the said A. M. should pay to him the said A. S. the sum of —, which appeared to me to be just and reasonable to be paid by him the said A. M. to him the said A. S. as and for his wages as aforesaid; and whereas it appears to me that the said A. M. on the said — day of — now last past had due notice of my said order, and that due demand of the said sum of — was then made of him the said A. M. by him the said A. S. but that he the said A. M. did not then pay nor bath yet paid the same, nor any part thereof; these are therefore to command you to make distress of the goods and chattels of him the said A. M. and if within the space of [four] days next after such distress by you made, the said sum of —, together with the reasonable charges of taking and keeping the said distress shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by the sale thereof that you pay the said sum of — unto him the said A. S., returning the overplus upon demand unto him the said A. M. the reasonable charges of taking keeping and selling the said distress being thereout first deducted. Given under my hand and seal the — day of —, in the — year —.

E. Complaint of a master against a servant for misbehaviour; on the 20 G. 2. c. 19. and 6 G. 3. c. 25.

Westmorland. } BE it remembered, That this — day of —, in the year —, A. M. of — in the county aforesaid, husbandman, complaineth and maketh oath before me J. P. esquire, one of his majesty's justices of the peace in and for the said county, that A. S. late of — aforesaid, in the county aforesaid, servant in husbandry to him the said A. M. hath in his said service [or, employment] been guilty of divers misdemeanors, miscarriages, and ill behaviour, towards him the said A. M. and particularly [as the case shall be]; and thereupon he the said A. M. prayeth that justice may be done.

Before me

J. P.

A. M.

F. Warrant for the servant thereupon.

Westmorland. { To the constable of ———

WHEREAS information and complaint hath been made unto me ——— one of his majesty's justices of the peace in and for the said county, upon the oath of A. M. of ——— in the said county, husbandman, [artificer, labourer, or as the case shall be], that A. S. late of ——— aforesaid, in the county aforesaid, servant in husbandry [or as the case shall be] to him the said A. M. hath in his said service [or, employment] been guilty of divers misdemeanors, miscarriages, and ill behaviour, towards him the said A. M. and particularly [as the case shall be]; These are therefore to command you forthwith to bring the said A. S. before me to answer unto the said complaint and to be further dealt with according to law. Given under my hand and seal, the ——— day of ——— in the ——— year of the reign of ———.

G. Commitment of the servant thereupon to the house of correction.

Westmorland. { To the constable of ——— in the said county, and to the keeper of the house of correction at ——— in the said county.

WHEREAS information and complaint hath been made ——— (the same as above, reciting the complaint); And whereas in pursuance of the statute in that case made and provided I have duly examined the proofs and allegations of both the said parties, touching the matter of the said complaint, and upon due consideration had thereof have adjudged and determined that he the said A. O. hath in his service as aforesaid been guilty of divers misdemeanors, miscarriages, and ill behaviour towards him the said A. M. and particularly [here set forth the special offence or offences]: And I do therefore convict him of the said offence, in pursuance of the statute in that case made and provided. These are therefore to command you the said constable forthwith to convey the said A. S. to the said house of correction at ——— aforesaid, and to deliver him to the keeper thereof, together with this warrant: And I do hereby command you the said keeper to receive the said A. S. into your custody in the said house of correction, there to remain and be corrected and held to hard labour, for the space of [the time, as the case may be] [or a lesser time] from the date hereof. And for your so doing, this shall be your sufficient warrant. Given under my hand and seal, the ——— day of ——— in the ——— year of the reign of ———.

H. Or otherwise he may be punished by abatement of wages, as follows :

THE same as above to the end of the adjudication :—
I do therefore hereby order, as a punishment for the said offence [or offences] that the said A. S. shall abate from his wages to be paid to him by the said A. M. the sum of ——— and do hereby discharge the said A. M. from the payment of the said sum of ——— as part of the wages of him the said A. S. Given under my hand and seal, the ——— day of ——— in the ——— year ———.

I. Or otherwise he may be discharged thus :

—— *I do therefore hereby order, as a punishment for the said offence [or offences] that the said A. S. be discharged, and do hereby discharge him the said A. S. from his said service [or employment] and the said A. M. from keeping him the said A. S. Given under my hand and seal the ——— day of ——— in the ——— year ———.*

K. Complaint of a servant against the master, for ill usage ; on the 20 G. 2. c. 19.

Westmoreland. **B**E it remembered, That this ——— day of ——— in the year ——— A. S. of ——— in the county aforesaid, husbandman, [labourer, &c.] complaineth and maketh oath before me J. P. esquire, one of his majesty's justices of the peace in and for the said county, that at Michaelmas last he the said A. S. was hired by A. M. of ——— aforesaid in the county aforesaid, husbandman, to be servant in husbandry to him the said A. M. for the space of ——— [or, as the case shall be] ; and that he the said A. S. did accordingly at Michaelmas last as aforesaid enter upon and afterwards until this present time hath continued and doth continue in the said service [or employment] ; and that he the said A. M. during the said service hath misused him the said A. S. and particularly [here set forth the special offences] : And thereupon the said A. S. prayeth that justice may be done in the premises.

Before me
J. P.

A. S.

L. Summons of the master, on complaint of the servant, for ill usage ; on the 20 G. 2. c. 19.

Westmoreland. { To the constable of ———.

WHEREAS complaint hath been made unto me ——— one of his majesty's justices of the peace in and for the said county, upon the oath of A. S. of ——— in the said county, husbandman,

Servants.

husbandman, [labourer, &c.] that at Michaelmas last he the said A. S. was hired by A. M. of ———— aforesaid in the said county, husbandman, to be servant in husbandry to him he said A. M. for the space of ———— [or, as the case shall be]; and that he the said A. S. did accordingly at Michaelmas last as aforesaid enter upon and afterwards until this present time hath continued and doth continue in the said service [or employment]: And that he the said A. M. during the said service hath misused him the said A. S. [refused necessary provision, been guilty of cruelty or other ill treatment, mentioning the particulars]: These are therefore to require you in his majesty's name to summon the said A. M. to appear before me on ———— next, at the house of ———— in ———— in the said county, at the hour of ———— in the afternoon of the same day, to answer unto the said complaint. And be you then there to certify what you shall have done in the execution thereof. Given under my hand and seal the ———— day of ———— in the ———— year ————.

M. Discharge of the servant thereupon.

THE same as before to the end of the complaint: And whereas the said A. M. in pursuance of my summons for that purpose hath appeared before me, to answer unto the said complaint, but hath not proved that he is not guilty of the said complaint and charge; but on the contrary it hath been fully and duly proved before me that he the said A. M. hath misused him the said A. S. in his service as aforesaid, and particularly [here set forth the special offence or offences:] ———— Or, And whereas it appears to me upon the oath of A. C. constable of ———— aforesaid that he the said A. C. by virtue of my precept to him directed did duly summon him the said A. M. to appear before me at a reasonable time therein prefixed to answer unto the said complaint, and he the said A. M. hath neglected to appear according to the said summons: And whereas it hath been fully and duly proved before me that he the said A. M. hath misused him the said A. S. in his service as aforesaid, and particularly [here set forth the particular offence or offence:]; I do therefore hereby order, in pursuance of the statute in that case made that he the said A. S. be discharged, and do hereby discharge him the said A. S. from his said service [or employment]. Given under my hand and seal, the ———— day of ———— in the year ————.

Form of conviction and commitment (a).

BE it remembered, That on the ———— day of ———— in the ———— year of majesty's reign, and in the year of our Lord

(a) By 41 G. 3. c. 38. instead of that contained in 39 & 40 G. 3. c. 106.

— A. B. is convicted before us, [naming the justices,] two of his majesty's justices of the peace for the county [or riding, division, city, liberty, town, or place.] of having [stating the offence] contrary to the statute made in the thirty-ninth and fortieth years of the reign of his present majesty, intituled, An Act to repeal an Act, passed in the last session of parliament, intituled, 'An Act to prevent unlawful combinations of workmen,' and to substitute other provisions in lieu thereof; and we the said justices do hereby order and adjudge the said A. B. for the said offence to be committed to and confined in the common gaol for the said county [or riding, division, city, liberty, town, or place.] for the space of ——— [or to be committed to the house of correction at ——— within the said county, [or riding, division, city, liberty, town, or place.] there to be kept to hard labour for the space of ———. Given under our hands the day and year above written.

Form of conviction in a pecuniary penalty (a).

BE it remembered, That on [pursuing the same form, as far as the title of the said recited act:] and we the said justices do hereby adjudge and determine the said A. B. for the said offence to forfeit and lose the sum of ——— of lawful money of Great Britain, to be distributed as the said act directs. Given under [as before.]

N. Commitment of a witness for not appearing upon summons by 39 & 40 G. 3. c. 106.

County. { To the constable of ——— in the said ——— and to the keeper of the common gaol [or house of correction at ———] in the said ———.

IV WHEREAS A. W. hath been duly summoned to appear and give evidence before us I. P. and K. P. two of his majesty's justices of the peace for the ——— of ——— on this ——— day of ——— at ——— - being the time and place appointed for hearing and determining the complaint made on the oath of A. I. before us, against A. O. of having [here state the offence as laid in the information] contrary to the statute made in the 40th year of the reign of his present majesty, intituled, [here insert the title (b) of the act.] And whereas the said

(a) By 41 G. 3. c. 38, instead of that contained in 39 & 40 G. 3. c. 106.

(b) An act to repeal an act passed in the last session of parliament, intituled, 'An act to prevent unlawful combinations of workmen,' and to substitute other provisions in lieu thereof.

A. W. hath not appeared before us at the time and place aforesaid specified for that purpose, or offered any reasonable excuse for his default [or, And whereas he the said A. W. having appeared before us at the time and place aforesaid specified for that purpose, hath not submitted to be examined as a witness and to give his evidence before us touching the matter of the said complaint, but hath refused so to do] : Therefore we the said justices do hereby, in pursuance of the said statute, commit the said A. W. to the ——— there to remain without bail or mainprize for his contempt aforesaid, until he shall submit himself to be examined and give his evidence before us touching the matter of the said complaint, or shall otherwise be discharged by due course of law; and you the constable [or other officer] are hereby authorized and required to take into your custody the body of the said A. W. and him safely to convey to the said prison, and him there to deliver to the gaoler or keeper thereof, who is hereby authorized and required to receive into his custody the body of him the said A. W. and safely to detain and keep, pursuant to this commitment. Given under our hands this ——— day of ——— in the year of our Lord ———.

O. Form of commitment [which may, under 39 & 40 G. 3. c. 90. s. 1; and c. 106. s. 18. be by one or two justices] of a person summoned as a witness before the arbitrators.

WHEREAS proof upon oath hath been made before me [or us, naming the justice or justices signing the commitment] one [or two] of his majesty's justices of the peace for the ——— of ——— on this ——— day of ——— That A. W. hath been duly summoned, and hath neglected to appear and give evidence before C. D. and E. F. the arbitrators appointed by and between G. H. and I. K. to determine the matters in dispute between them at ——— in the ——— of ——— on the ——— day of ——— under and by virtue of an act made in the 40th year of the reign of king George the third, intituled, An Act, [here set forth the title of the act under which the commitment is made (c)]: And the said A. W. being required by me the said justice [or us the said justices] to give evidence before the said arbitrators, and still refusing so to do, Therefore I the said justice [or we the said justices] do hereby, in pursuance of the said act, commit the said A. W. to the [describing the prison or the house of correction],

(c) See note (b) immediately preceding :—The title of chapter 90 is 'An act for settling disputes that may arise between masters and workmen engaged in the cotton manufacture in that part of Great Britain called England.'

there to remain, without bail or mainprize, for his [or her] offence aforesaid, until he [or she] shall submit himself [or herself] to be examined, and give his [or her] evidence before the said arbitrators touching the matters referred to them as aforesaid, or shall otherwise be discharged by due course of law: And you the [constable or other officer] are hereby authorized and required to take into your custody the body of the said A. W. and him [or her] safely to convey to the said prison [or house of correction] and him [or her] there to deliver to the gaoler [or keeper] thereof, who is hereby authorized and required to receive into his custody the body of the said A. W. and him [or her] safely to detain and keep pursuant to this commitment. Given under my hand [or our hands] this ——— day of ——— in the year of our Lord ———.

P. Oath to be administered by the arbitrators.

THE evidence that you shall give before us the arbitrators appointed by A. B. and C. D. [the parties to the submission] to determine the matters in difference between them, under and by virtue of an act passed in the 40th year of the reign of king George the third, intituled, An act [state the title of the act under which the submission is made (a)] shall be the truth, the whole truth, and nothing but the truth. So help you God.

Q. Form of the submission to arbitration.

I A. B. of ——— do hereby nominate and appoint A. A. of ——— my arbitrator, under and by virtue of an act passed in the 40th year of the reign of king George the third, intituled, An act [here state the title of the act under which the submission is made] to hear and determine the matters in difference between me and A. B. of ———.

I C. D. of ——— do appoint E. F. of ——— to be my arbitrator under the said act for the purposes aforesaid.

R. Form of the award or umpirage to be written at the foot of the submission.

WE A. A. and B. A. of ——— the arbitrators above named [or I, I. P. the justice, as the case may be], do hereby adjudge and determine That [here set forth the determination.]

A. A.

B. A.

Witness A. W.

(a) See notes (b) (c) preceding.

S. Form of conviction in a pecuniary penalty.

BE it remembered, that on the — of — in the — year of the reign of — and in the year of our Lord — A. O. is convicted before us — two of his majesty's justices of the peace for the county of — for that the said A. O. [here state the offence] contrary to the statute made in the 40th year of the reign of king George the third, intituled, An act [here insert the title of the act under which the conviction is made], and we the said justices do hereby adjudge and determine the said A. O. for the said offence to forfeit and lose the sum of — of lawful money of Great Britain, and do order the same to be forthwith paid by him the said A. O. to C. D.

T. Form of conviction and commitment under 39 & 40 G. 3. c. 106.

BE it remembered, that on the — day of — in the — year of his majesty's reign, and in the year of our Lord — A. O. is convicted before us — two of his majesty's justices of the peace for the county of — of having [state the offence] (a) contrary to the statute made in the 40th year of the reign of his present majesty, intituled, An act to repeal an act passed in the last session of parliament, intituled, 'An act to prevent unlawful combinations of workmen,' and to substitute other provisions in lieu thereof; and we the said justices do hereby order and adjudge the said A. O. for the said offence to be committed to, and confined in the common gaol for the said county, for the space of — [or to the house of correction at — within the said county, there to be kept to hard labour for the space of —.] Given under our hands the day and year above written.

For Duty on Servants. See **Cares.**

Sessions.

[12 R. 2. c. 10.—14 R. 2. c. 11.—2 H. 5. st. 1. c. 4. f. 2. —14 H. 6. c. 4.—5 G. 2. c. 10. f. 1.—22 G. 2. c. 46. f. 12. 14.—32 G. 3. c. 45. f. 4.]

Sessions, what.

THE sessions of the peace is a court of record, holden before two or more justices, whereof one is of the *quorum*, for execution of the authority given them by the

(a) See *Sup.* 241. *R. v. Neild* and others.

commission

commission of the peace, and certain statutes and acts of parliament. *Dalt. c. 185.*

That the king may grant a commission of the peace for a county, and that the jurisdiction of such justices may pervade the whole county, cannot be doubted; neither can it be disputed that he may grant commissions of the peace for any particular district in the county, and that that subdivision may have justices of it's own, exclusive of the jurisdiction of the justices of the county at large: but the latter can only be effected by a non-intromittant clause, prohibiting the county justices from interfering in that district. *R. v. Suinsbury, Elq. and another, 4 T. R. 456.*

It seems that the *general sessions*, and *quarter sessions*, are not synonymous; but that the quarter sessions are a species only of the general sessions, and that such sessions only are properly called general quarter sessions, which are holden in the four quarters of the year, in pursuance of the statute of the 2 H. 5.; and that any other sessions holden at any other time for the general execution of the justices authority, which by the said statute they are authorized to hold oftener than at the times therein specified, if need be, may be properly called *general sessions*, and that those holden on a special occasion for the execution of some particular branch of their authority may properly be called *special sessions*. 2 *Haw. c. 8. s. 9.*

Difference between general, quarter, and special sessions

By the 12 R. 2. c. 10. The justices shall keep their sessions in every quarter of the year at least, and by three days, if need be; on pain of being punished according to the discretion of the king's council, at the suit of every man that will complain.

At what time the sessions shall be kept.

And by the 2 H. 5. *ss. 1. c. 4.* the particular time in every quarter of the year shall be as follows; to wit, in the first week after the feast of *St. Michael*, in the first week after the *Epiphany*, in the first week after the clause of *Easter*, and in the first week after the translation of *St. Thomas* the martyr; and more often if need be. *s. 2.*

Except in *Middlesex*, where the justices shall keep their sessions twice in the year at least; and more often (if need be) for any riot or forcible entry. 14 H. 6. c. 4.

And because of the multiplicity of business arising in this county more than in any other, it is customary to hold eight sessions every year (to wit) four general quarter, and four general sessions; and in *Middlesex* the justices have a commission of *Oyer and Terminer*; which sessions they hold as often as they hold the sessions of the peace. And *Westminster* has a distinct commission of the peace.

The strict regular exposition of the abovesaid statute of the 2 H. 5. is, that if the feast day fall upon the *Sunday*, the sessions

sessions shall be held in the week following, and not the same week. 2 H. H. 49.

Are variously
held in different
counties.

Yet it is very plain, that the quarter sessions are variously holden in several counties, some at one day, and some at another; yet it hath been ruled that these are each of them good quarter sessions within the several acts that relate to quarter sessions; for these acts, especially the 2 H. 5. is only directory and in the affirmative, and therefore, though the sessions are held on another day, according to the general direction of the 12 R. 2., yet they are quarter sessions. 2 H. H. 50.

When a sufficient
number of
justices do not
appear.

It sometimes happeneth that on the day appointed for holding the sessions, a sufficient number of justices doth not appear. And a question arises, what is to be done in such a case? It seemeth to be generally understood that the sessions for that quarter of the year is irrecoverably lost. But the matter seemeth not altogether so desperate. For there are obvious remedies; by the first of which, it may be possible to recover the sessions in the very identical week next after any of the respective holidays above-mentioned; by the latter, at all events, a quarter sessions may be held. As to the former case, there cannot be time indeed, within that week, to summon a sessions *de novo*; but neither is that absolutely necessary. A session may be holden, without a previous summons; and the justices there may adjourn to another day, and issue their precept to the sheriff against the day of adjournment. To which purpose, Mr. Lambard saith thus; "Albeit that the sessions be commonly, and most orderly, summoned by a precept in writing; yet it is not altogether of necessity (for the making of a lawful sessions) to have it so. For if competent justices of the peace do get men, to serve and thereupon do hold a sessions, without any precept before directed, all presentments made before them by twelve lawful men shall be of force in law; but no man shall lose any thing for his default of appearance there, because no man had notice of their sitting." Lamb. 380.—Thus far as to saving the original sessions week; for how many adjournments soever shall be holden afterwards in that quarter of the year, all shall refer to the first commencement of the sessions; and thereby some processes or recognizances may be saved, which may possibly run for appearance at the sessions to be holden in the week next after any of the holidays above-mentioned.

But the general (and better) form of such instruments is otherwise. And certainly, though a session shall not be holden within a week after such feast day, it doth not follow that therefore it cannot be holden in any of the twelve weeks after. Undoubtedly any two justices, one whereof is of the

quorum, by the words of the commission of the peace, may issue their precept to the sheriff to summon a session, for the general execution of their authority; and such session, holden at any time within that quarter of a year, is a general quarter session. And so far is the statute from saying, that if the sessions be not holden in the week next after such respective feast as aforesaid, such session shall be void, the very same statute directs that the justices shall hold their sessions *more often if need be*; and greater need cannot be, than when the former meeting of the justices hath been frustrated.

There is no determination by any statute of any particular place for the sessions to be kept, so it be within the county. And if a place within the county be incorporated, and have justices of its own, yet the same remains part of the county, and the justices of the county may notwithstanding hold their sessions there, although it may be that they shall not intermeddle with matters arising there, save only such as shall happen in their sessions, or with relation thereunto. *Dalt. c. 185.*

Where the sessions shall be holden.

And from hence it seems to follow that any two such justices may direct their precept under their teste to the sheriff for the summons of the sessions, thereby commanding him to return a grand jury before them, or their fellow justices, at a certain day and place, and to give notice to all stewards constables and bailiffs of liberties to be present and do their duties at such day and place, and to proclaim in proper places throughout his bailiwick that such sessions will be holden at such day and place, and to attend there himself to do his duty. *2 Haw. 7. 8. f. 42.*

Precept to summon the sessions.

Such precept shall bear teste, or be dated fifteen days before the return, and ought forthwith to be delivered to the sheriff, to the end he may have sufficient time to proclaim the sessions, to summon and return the several juries, and to warn all officers and others that have business there, to attend. *Nels. Introduc. 35.*

And it is said that such a precept by any two justices cannot be superseded by any of their fellows, but only by writ out of chancery. *2 H. H. 41.*

But it is not sufficient that the precept run under the name of the *custos rotulorum* alone; for he hath no more authority in this behalf than any one of his fellow justices: and the words of the commission are, that the sheriff shall cause a jury to appear at such days and places, as the said justices, or such *two or more of them* as aforesaid, shall appoint. *Lamb. 382.*

Mr. Lambard puts a case from Mr. Marrow, That if two or more justices appoint the sessions to be holden in one town and so many more appoint sessions in another town the same day,

day, and holds they may be so held, and that the presentments in both are good; but that appearance at one is a discharge of service at the other. But it may be well questioned whether they are not both void; for they make two courts of that which ought to be entire and but one; for it doth not appear that the justices are required or enabled to hold more than one sessions at a time, and so their authority being equal, and seeing no preference can be made by the priority of time, or nature of the service, they may be taken to be both void. However the justices, by whose forwardness such division happens, or on whom such miscarriage is chargeable, are punishable for the same by information and fine, or being put out of the commission, as the cause shall require. *Dalt. c. 185.*

Indeed, it is of infinite importance that the proceedings of magistrates should not only be substantially good, but also that they should be decorous. Wherefore, where two sets of magistrates have a concurrent jurisdiction, and one appoints a meeting to grant ale licenses, their jurisdiction attaches so as to exclude the others appointing a subsequent meeting; but they may all meet together on the first day. But if after such appointment the other set of magistrates meet on a subsequent day, and grant other licenses, their proceeding is illegal, and the subject of an indictment. *R. v. T. Sainsbury, Elq. and another. 4 T. R. 3. 451.*

Persons who are to appear there.

The persons who ought to appear at these sessions are as follows;

Justices.

(1) The *justices of the peace*; these without doubt are compellable to appear at the sessions; for without their appearance the sessions cannot be holden. *Dalt. c. 185.*

Justices being interested.

But a justice ought not to join in an order at sessions wherein himself is concerned, nor ought his name to be in the caption. An order was quashed for that reason. *2 Salk. 607.*

Custos rotularum.

(2) The *custos rotularum*, who hath custody of the rolls of sessions, ought (by the commission) to be there by himself, or by his deputy, who is the clerk of the peace. *Dalt. c. 185.*

Sheriff.

(3) The *sheriff* also, by virtue of the commission, by himself or his deputy; to recover the fines, or return jurors, to execute process, and what else to his office doth appertain. *Id.*

Coroners.

(4) All *coroners*. *Id.*

High constables.

(5) The *constables of hundreds* (that is, high constables) and all other officers to whom any warrant hath been directed, in order to make return thereof. *Id.*

Bailiffs.

(6) All *bailiffs of hundreds and liberties*, in respect they are bound to give an account of all sessions process. *Id.*

(7) The

(7) The *gaoler*; to bring thither his prisoners, and to receive such as may be committed. *Id.* Gaoler.

(8) The *keeper of the house of correction*, to give in a calendar and account of persons in his custody. *Id.* Keeper of the house of correction.

(9) All persons returned by the sheriff, by virtue of the aforesaid precept. And the jurors not appearing according to their summons are punishable by loss of issues, which usually make part of the estreats of sessions. *Id.* Persons returned by the sheriff.

(10) All persons returned by *recognizance* to answer, or to prosecute and give evidence. *Id.* Or by recognizance.

All persons may freely attend at the sessions for the advancement of public justice, and for the service of the king. And to this end they are (as it were) invited thither by a certain freedom of access, and by protection from common arrest; a thing that is incident to every court of record, and without which justice would be greatly hindered. So that if a man come voluntarily to the sessions, either to prefer a bill of indictment, or to give information against another, or to tender a fine upon an indictment touching himself; or do come compelled to make appearance for saving his recognizance, and be arrested by the sheriff upon common and original process in his coming thither, or during his tarrying there, it seemeth (Mr. *Lambard* says) that (upon examination of the matter under his oath) he shall be discharged thereof by the privilege of this court, even as it is used in the higher courts at *Westminster*. *Lamb. 402.* Freedom of access to the sessions.

But Mr. *Hawkins* puts it more doubtfully, saying, It is questioned whether the sessions, as also all courts of record, may not discharge any person arrested during his journeying to or from such courts, or necessary attendance there, by process from any other court: However it seems to be agreed that any such court may discharge a person who shall be so arrested in the face of it. *2 Haw. c. 1. f. 18.*

But now no doubt can be entertained on the subject; and this privilege is so incident to the duty of attendance on judicial proceedings, that it has been construed to extend to the case of a defendant in a cause attending an arbitrator to be examined under a rule of court. *Spence v. Stuart, Bart. 3 E. R. 89.*

On general principles, this privilege from arrest, *eundo, morando, & redeundo*, applies to the case of every person in necessary attendance on a court of justice: and for this purpose the sitting of commissioners of bankrupt or of an arbitrator is so deemed. *8 T. R. 534.*

And *T. 7 G. 2.* It seemeth to have been agreed in the argument upon Col. *Pitt's* case (which was an arrest in his return from parliament) that not only in the high court of parliament, but also in the inferior courts, the parties to the

suit, and also the witnesses, are protected in going continuing and returning. This returning hath never been very nicely scanned, so as to require a man to go the direct road: and the protection is not forfeited by the plea of *going out of the way*, because it may be the party went to buy a horse, victuals, or other necessities for his journey. Neither is the law so strict in point of time as to require a person to set out immediately after the trial is over; and for that was cited the case of *Hatch v. Blisset*, T. 13 An. She had a trial at *Winchester* assizes, which was over on *Friday* at four in the afternoon; she staid there till after dinner on *Saturday*; and in the evening at seven was arrested going home to *Portsmouth*, which is twenty miles: and the court held, that she ought to be discharged, her protection not being expired, and a little deviation of loitering would not alter it. 2 Str. 987.

But where a man is arrested by process out of the courts at *Westminster*, it doth not seem that the justices of the peace (unless the arrest is made in the sessions) have power to discharge him; but, on application to the court from whence the process issued, such court probably may discharge him, and punish the person who made the arrest.

Who shall act
in the sessions as
solicitor.

By the 22 G. 2. c. 46. No person shall act as solicitor, attorney, or agent, or sue out any process at any general or quarter sessions, either with respect to matters of a criminal or a civil nature, unless he is admitted and inrolled according to law on pain of 50l. to him who shall sue in 12 months, with treble costs: And if any attorney shall permit any person to make use of his name in the said court, he shall in like manner forfeit 50l. s. 12.

And no clerk of the peace, under-sheriff, or their deputies, shall act as solicitor, attorney, or agent, or sue out any process at such sessions, on the like pain of 50l. s. 14.

The sessions may
do what two
justices may.

Where authority is given to two justices to do any act, the sessions may do it in all cases, except where appeal is directed to the sessions. 1 L. Raym. 426.

But the sessions cannot suppress a licensed alehouse, unless for disorder. R. v. *Randall*, 2 Salk. 470.

Justices may
bind over for
offences cog-
nizable at session.

Justices may issue their warrants for apprehending persons charged of crimes within the cognizance of the sessions, and bind them over to appear there, although the offender be not yet indicted. 1 H. H. 579. But as this practice is founded rather upon long usage than any express law, it seemeth better, in ordinary cases (not amounting to felony) to leave a man to the common process of the court, in case of an indictment to be found against him; and if no indictment shall be found, it seemeth hard to deprive a man of his liberty, when he hath been in no fault.

Sessions to pro-
ceed by indict-
ment.

If jurisdiction be given to the sessions, to hear and deter-
mine,

mine, and doth not say by information, this shall be by indictment, and not upon information. *Dalt. c. 191.*

Where a power is given to a jurisdiction, which does not ordinarily entertain actions bills or plaints, in general terms to enquire of hear and determine the offence, it must be understood to mean by the common law mode of proceeding, viz. by indictment or presentment. 4 *T. R.* 115.

Though in certain and particular cases an action may be brought at the assizes or the sessions, by statutes 5 & 6 *Ed. 6. c. 14*; 5 *Eliz. c. 4. s. 39.* & 21 *Jac. 1. c. 18. s. 12.* an action bill or plaint cannot by the common law be brought at the assizes or the sessions. *Ib.*

The *stat. 1. Jac. 1. c. 22.* gives certain penalties, to be recovered (sect. 46.) by action of debt or information in the courts at *Westminster*; and the 50th session gives jurisdiction to the justices of assize, of gaol delivery, and of the peace, to enquire of the premises, and to hear or determine the same: under the latter clause the inferior courts can only proceed by indictment or presentment; and the informer may bring an action of debt in the superior courts at *Westminster*, notwithstanding the statute 21 *Jac. 1. c. 4.* *Ib.*

The true meaning of the *stat. 21 Jac. 1. c. 4.* is this; wherever by any act then in force the informer might have sued by action bill plaint suit or information in the inferior courts as well as in the courts at *Westminster*, he is confined to sue in the former: but as this statute gives no new jurisdiction to the inferior courts, the party may still sue in the courts at *Westminster* for all those penalties which could not before the passing of that statute have been recovered in the inferior ones. *Ib.* 117.

The sessions are not obliged to give any reason of their judgment in the orders they make, no more than any other of the courts of law. 2 *Salk.* 607.

By *Holt Ch. J.* 'The sessions is all as one day, and the justices may alter their judgments, at any time whilst it continues. 2 *Salk.* 606.

In the case of *Thornby v. Fleetwood*, *T. 6 G.* (which was upon a writ of error in the king's bench brought against a judgment in the common pleas) the court was equally divided; whereupon it was considered what was further to be done. And after several expedients, which were judged impracticable, the parties at last consented that the judgment should be affirmed, so that the case thereupon might come before the house of lords for a final determination. And *Pratt Ch. J.* delivered the opinion of the court thus; the plaintiffs in error move us for an affirmance; as to that you see the court is divided, and there can be no rule: but in this case, because the party against whom it is to be affirmed is desirous and

Need not give their reasons.

Orders may be altered the same sessions.

Court equally divided.

willing it should be so, we are all of opinion that upon his consent the judgment of the common pleas may be affirmed. But lest this be brought in future ages as a precedent of an affirmance upon a division, we direct the officer to make the rule special in this case, on recital of the difference in opinion amongst the judges, and the consent of the party. 1 *Str.* 383, 4.

T. 8 G. 2. R. v. the J. of Westmoreland. Order of two justices of the borough for removing a poor family; appeal to the sessions of the county, at which the justices were equally divided; so no determination was made, nor the appeal adjourned. A *mandamus* was directed to all the justices of the county in general to proceed on the appeal. And it was said that the justices ought in this case to have adjourned the appeal, or continued it over to a subsequent sessions, till by the coming of more justices it might have been determined. 2 *Seff. C.* 193.

For if the justices at sessions be equally divided, and no order be made, nor the sessions adjourned, no order can be made at a subsequent sessions. Where they are equally divided in opinion, that is a sufficient warrant for the clerk of the peace to enter an adjournment, and it is his duty so to do. *Bodmin v. Wurligen. Bott.*

Or if the court shall be still divided, as so it may happen in small counties or towns corporate where the justices are but few, or where the number is reduced by reason of the rest being interested; in order that the cause may not be hung up for ever, it may be advisable (according to the course prescribed in the case of *Thornby* and *Fleetwood* above mentioned) for the court, by consent of the parties, to affirm or quash, and thereupon state the case especially, to be laid before the judges of assize, or rather before the court of king's bench; for the judges of assize are oftentimes sufficiently employed with the proper business of the circuit, without being importuned with these matters of inferior consequence.

The sessions do not always refer the whole case to the judge of assize: sometimes they refer only a particular point; and reserve the final determination of the whole matter to themselves. *R. v. Tedford. 2 B. S. C. 57. 2 Seff. Cif. 243.*

Whether the
sessions can refer
a matter.

In *R. v. Harding, 2 Salk. 477.* It is delivered as the resolution of the court that a judge of *nisi prius*, by consent of parties, may make a rule to refer a cause; but the sessions cannot do so, though by consent. They may refer a thing to another to examine, and make report to them for their determination, but cannot refer a thing to be determined by the other.

But in *R. v. the J. of Northampton, T. 17 G. 3.* On a motion to quash an order of sessions quashing a poor rate, on the

the ground that the rate was by the sessions referred to two justices out of sessions, and that the sessions afterwards adopted their opinion, without exercising their own judgment; *L. Mansfield* said, if they did this of their own accord, without the consent of the parties, it is bad: But if they did it by consent of the parties, they have done very right; and we will never suffer the party who consented to the reference to come here to set it aside; and I think it sufficient if the attorneys consented, and attended at the reference. And the cause was sent back to the sessions to certify whether it was referred by consent. *Cald. Cas.* 30.

A bill of exceptions will not lie to the justices in sessions on an appeal: for, as observed by *L. Hardwicke*, in the common case of bills of exception tendered to the judges, the jury alone are the proper persons who would be to decide whether they believe the evidence or not, the judges have nothing to do with the belief of the evidence; they are not to determine on its credibility, but on the consequence of law arising from it. But the justices at sessions are judges of the fact as well as law; they are jury as well as judges; it is in their breast only whether to believe or disbelieve the evidence; and who is to take upon himself to say what portion of the evidence they do believe and what they do not? Suppose six of the justices believe the evidence, and two of them do not believe it, are the two to conclude the six as to the belief of the fact? When the justices specially state the fact, it is the act of the whole court, but here only two out of the whole number have sealed the bill of exceptions. *R. v. Preston, B. S. C.* 77.

Bill of exceptions will not lie.

The sessions cannot be compelled to state a special case. Nor will the court permit them to raise a *general question*, by omitting to state particular circumstances belonging to the case. But if the sessions order a special case to be made, and before it is settled the sessions is inadvertently adjourned, the court of K. B. will grant a *mandamus* to compel them to proceed in the appeal. *R. v. Oulton.* 2 *Bott.* 73. *pl.* 887. *R. v. Francis Hill.* 1 *Bott.* 280. *pl.* 293. *R. v. J. of Suffex,* 2 *Bott.* 751. *pl.* 902.

Sessions stating a special case.

The court will not send a case down to the sessions to be re-stated on a mere formal objection, if enough appear to enable them to decide according to the merits of the case. *R. v. Middelzoy (Inhab.)* 1 *T. R.* 41.

If a special case be sent back to be re-stated, the sessions should proceed as if it were an entirely new business; for it is in the nature of a new trial; wherefore they have no right to take any notice of what passed before. *R. v. Page,* 2 *Bott.* 743. *pl.* 892.

But the sessions, in order to re-state a case, are not necessarily obliged to hear new evidence. *R. v. Bray, id. B. S. C.* 684.

However, the court will send back a special case, in order that it may be amended as to a particular fact by new evidence. *R. v. Hitcham. B. S. C. 489.*

Special orders of sessions are considered in the nature of special verdicts, which are not to state the evidence of the fact, but the fact itself. *R. v. Martley, id. 120.*

King's courts
not ousted by
appeal.

An appeal to the quarter sessions will not oust the king's courts of their jurisdiction, without express words to that purpose; and it is every day's experience that actions are brought upon the poor's rates, though an appeal lies to the sessions. *2 Bl. R. 926.*

Costs.

The sessions may be compelled by *mandamus* to allow costs and charges on an appeal. *St. Mary Nottingham v. Kirklington. 2 Seff. Caf. 64. 2 Bott. 756. pl. 910.*

In making an order for costs, the sessions need not say how much was expended, provided it otherwise appear, as on oath of the parties. *Maiden-Bradley v. Walsingham. Fol. 247. Id. pl. 911.*

But the sessions cannot order costs on the mere adjournment of an appeal, without hearing it. *R. v. Stansfield. id. pl. 912.*

The sessions must either give or not give costs at the time they make their order: they cannot direct the costs to abide the event of another presumed appeal. *Great Chert v. Kemnington. B. S. C. 194. 2 Bott. 756. pl. 913.*

Forgery at common law, and cheat.

The sessions have no jurisdiction over the offence of forgery at common law, nor can they take cognizance of it as a cheat. *R. v. Alicah Gibbs. 1 E. R. 173.*

How far the sessions hath power over its own members.

It seemeth certain that the sessions hath no authority to amerce any justice for his non-attendance at the sessions, as the judges of assize may for the absence of any such justice at the gaol delivery; for it is a general rule that *inter pares non est potestas*, it being reasonable rather to refer the punishment of persons in a judicial office, in relation to their behaviour in such office, to other judges of a superior station, than to those of the same rank with themselves. And therefore it seems to have been holden that if a justice at the sessions, who is not of the *quorum*, shall use such expressions towards another who is of the *quorum*, for which if he were a private person he might be committed or bound to his good behaviour, yet the sessions hath no authority to commit him, or to bind him to his good behaviour; and yet it seems to be agreed that if a justice give just cause to any person to demand the surety of the peace against him, he may be compelled by any other justice to find such security; for the public peace requires an immediate remedy in all such cases. *2 Haw. c. 8. f. 46.*

Whether they may issue a *compias utlagatum*.

The sessions may proceed to outlawry in cases of indictments found before them; and that, by the common law; and

and in cases of popular actions, by the statute of the 21 J. c. 4. But they cannot issue a *capias utlagatum*, but must return the record of the outlawry into the king's bench, and there process of *capias utlagatum* shall issue. 2 H. H. 52. Lamb. 521.

But by the 12 Co. 103. They that have power to award process of outlawry have also a power to award a *capias utlagatum*, as incident to their authority and jurisdiction.

Generally, the sessions cannot award an attachment for contempt in not complying with their orders; but the ordinary and proper method is by indictment. H. 8 G. 2. R. v. Bartlett, 2 Seff. C. 176.

Whether they may award an attachment.

Generally, it is said, that the justices are not punishable for what they do in sessions. Stam. 173. Unless there be some manifest act of oppression, or wilful abuse of power. 2 Barnardist. 249, 250.

Justices not punishable for what is done in sessions.

T. G. 3 R. v. the J. of Seaford. It was moved for an information against four persons who were churchwardens and overseers of the poor of Seaford, and also the only justices of the peace of the said borough, for refusing to put a substantial householder upon the poor rate (which is a necessary requisite towards giving a vote for members of parliament), and upon appeal refusing to amend the rate, or give relief in sessions. But as they were acting in a court of record, with powers intrusted to them by the constitution, the court said it must be a very strong case indeed, with flagrant proofs of their having acted from corrupt motives, that will warrant a rule for an information; and therefore refused to grant a rule to shew cause. 1 Bl. Rep. 432.

The manner of proceeding at the sessions is as follows; first, the justices being met, the usual course is with three oyes to proclaim the sessions, and then read the commission of the peace. Dult. c. 185.

Manner of proceeding in sessions.

Commission read.

Then the grand jury are called and sworn, and the charge given to them. Id.

Grand jury sworn.

If there be any who are to take their oaths, in order to qualify them for offices, this must be done between the hours of 9 and 12 in the forenoon, and not otherwise. 25 C. 2. c. 2. s. 2.

Taking oaths.

The king's proclamation against profaneness and immorality is also to be read; and likewise there are divers acts of parliament to be read in the sessions, as the 5 El. c. 1. against popery, and the riot act 1 G. c. 5. and the black act 9 G. c. 22. And the 11 & 12 W. c. 15. about ale measures; 30 C. 2. c. 3. about burying in woollen; are required to be given in charge at the sessions. And the 4 & 5 W. c. 24. 7 & 8 W. c. 32. 3 & 4 An. c. 18. and 3 G. 2. c. 25. concerning jurors, are to be read in Midsummer sessions yearly.

Acts to be read.

And the 2 G. 2. c. 24. against bribery and corruption in election of members of parliament is to be read at every *Easter sessions*.

Recognizances to give evidence called.

Then the recognizances may be called, especially such as are to prosecute and give evidence, that so bills may be drawn and prepared. *Dalt. c. 185.*

Bills before the grand jury.

The bills being ready, the parties bound over for that purpose are sworn to give evidence upon the bills; and the course is, to bid the witnesses go with the grand jury, where they consider of the bill, and either find it or not find it, and then return it. *Id.*

Other business whilst the grand jury are gone out: such as motions, appeals, recognizances.

Whilst the jury is gone out of court, the usual way is to proceed upon motions and orders touching settlements, bastardy, nuisances, and the like; and to all persons bound over to the peace or good behaviour; but it may be best not to discharge them till the end of the sessions, because bills may be preferred against them. *Id.*

Errors in form to be amended.

Upon appeals to be made to the sessions against judgments or orders, the justices shall cause any defect of form in such original judgments or orders to be rectified and amended, and then shall proceed upon the merits. 5 G. 2. c. 19. s. 1.

Certificates of nuisances removed.

Mr. *Shaw* (tit. *Sessions*) says, no indictment for a nuisance shall be quashed or discharged, unless two justices do certify to the court upon their own view, either by certificate under their hands, or in person, that the nuisance is removed; for this he quotes 3 *Cro.* 584. *Layton's case*. But that case only mentions a certificate in general, and the certificate in that case was not a certificate of two justices, but of several inhabitants adjoining; and it should seem that the sessions may be well satisfied of such removal of a nuisance by other evidence as well as by that of two justices.

Traverses tried.

Then may be called the persons bound by recognizance at the last sessions, to prosecute their traverses at the present sessions. For if a person indicted of a trespass or other misdemeanor do appear, and plead not guilty, and traverse the indictment, he shall enter into recognizance to prosecute his traverse at the next quarter sessions. For in *Bumstead's case*, 11 G. the whole court was of opinion, that justices of the peace may not enquire, try, and determine civil offences, in one and the same day; for the party ought to have a convenient time to provide for the trial. *Cro. Car.* 448.

And on the trial of a traverse, the defendant must appear in the court, at the bar, in his proper person; and then the indictment is read to the jury; and the prosecutor and his witnesses are called to give evidence, and are heard; and if the defendant be found guilty the court sets a fine upon him adequate to the offence, or other punishment as the law directs. *Crown Cir.* 50, 51.

In case of trespass and assault, the court frequently recommends the defendant to talk with the prosecutor, that is, to make him amends for the injury done him; and if the prosecutor come and acknowledge a satisfaction received, the court will set a small fine on the defendant, as 3s. 4d. or 12d. *Cro. Cir. 52.*

Sometimes the prosecutor and defendant agree before the defendant pleads to the indictment; and then the defendant comes into court in his proper person, and pleads guilty to the indictment; and upon proving, by a subscribing witness, a general release executed by the prosecutor, the defendant submits to a small fine, such as the court is pleased to impose. *Id.*

There are frequent prosecutions at the sessions for trifling assaults; in which case it is advisable for a defendant, not to put himself to the expence of trying the indictment, but to give notice to the prosecutor that he intends to plead guilty to the indictment; in which case the prosecutor attends the court with his witnesses, and gives evidence of the nature of the offence; and then the court proceeds to fine the defendant for his misbehaviour towards the prosecutor: but before that is done, the court will admit the defendant to call such witnesses as he desires, and will examine them by way of mitigation. *Cro. Cir. 54.*

And because the arraignment and trial of prisoners is a great part of the business of the sessions, it is proper to take notice of some parts thereof and proceedings thereupon.

Trial for petit larceny and other offences.

Towards the end of the sessions when it appears what bills are come in against the prisoners, the gaoler being called to set his prisoners to the bar, and the crier being called to make a bar, that is, to dispose of the company, that a way be made open from the court to the prisoners, that the court, jury, and prisoners may see each other, one of the prisoners is called to; *A. B.* hold up thy hand. *Dalt. c. 185.*

Arraignment.

Yet it is not necessary that he hold up his hand at the bar, or be commanded so to do; for this is only a ceremony, for making known the person of the prisoner to the court, and if he answer that he is the same person, it is all one. *2 Haw. c. 28. s. 2.*

Holding up the hand.

Then he is acquainted with the effect of the charge laid against him. Thou *A. B.* standest indicted by the name of *A. B.* for that thou ——— (and so recite the indictment). How sayest thou, *A. B.* art thou guilty of this felony and petit larceny whereof thou standest indicted, or not guilty? *Dalt. c. 185.*

Guilty or not guilty.

If he answer that he is guilty, then the confession is recorded, and no more done till judgment. *Id.*

Confession.

The plea of *autrefois acquit* cannot be pleaded, unless the facts charged in the second indictment would have sustained

Pleading.

the first indictment. *R. v. Vandercom & Abbot, O. B. 1796. 2 East's P. C. c. 15. f. 29.*

Standing mute.

If he make no answer at all, and will not plead, he shall have the same judgment as if he had confessed the indictment. *12 G. 3. c. 20. 2 Haw. c. 30. f. 10.*

Trial by the country.

But if he say, not guilty, he is then asked; how wilt thou be tried? *Dalt. c. 185.*

Which was formerly a very significant question, though it is not so now; because anciently trial by battel and trial by ordeal was used, as well as by the country, or a jury.

Therefore it is now usually answered, by God and the country. *Dalt. c. 185.*

Humanity towards the prisoner.

Mr. *Hawkins* observes, that every person at the time of his arraignment ought to be used with all the humanity and gentleness which is consistent with the nature of the thing, and under no other terror or uneasiness than what proceeds from a sense of his guilt, and the misfortune of his present circumstances, and therefore ought not to be brought to the bar in a contumelious manner, as with his hands tied together, or any other mark of ignominy and reproach; nor even with fetters on his feet, unless there be some danger of a rescous or escape. *2 Haw. c. 28. f. 1.*

And the court ought to exhort him to answer without fear, and to acquaint him that he shall have justice done to him. *2 Inst. 316.*

Witnesses called.

Next, the prisoner having put himself upon his country, the prosecutors are called on the recognizances, to give evidence. *Dalt. c. 185.*

Jury called.

Then the jury are called on their panel, thus, You good men that are returned and impanelled to try the issue joined between our sovereign lord the king and the prisoner at the bar, answer to your names. *Id.*

Proclamation.

Which done, and they appearing a full jury, a proclamation is made; If any can inform the king's attorney, or this court, of any treasons, murders, felonies, or other misdemeanors against *A. B.* the prisoner at the bar, let them come forth, for the prisoner stands upon his deliverance. *Dalt. c. 185.*

Challenge.

Then it is said to the prisoner, You prisoner at the bar, the persons that you shall now hear called are to pass upon your trial (upon your life and death, if it be a capital offence); if you will challenge them, or any of them, you must challenge them as they come to the book to be sworn, and before they be sworn. *Id.*

Jury sworn.

Then call the foreman of the jury, and say unto him; Lay your hand on the book, and look upon the prisoner; You shall well and truly try and true deliverance make between our sovereign lord the king and the prisoner at the bar, whom you

you shall have in charge, and a true verdict give according to your evidence; So help you God.

Then call the second, and so swear him in like manner; and so on to 12, and neither more nor less. 2 *H. H.* 293. Jury charged.

Then count them 12, and say, You good men that are sworn, you shall understand that *A. B.* now prisoner at the bar stands indicted for that he ——— (and so recite the indictment); To which indictment he hath pleaded not guilty, and for his trial hath put himself upon God and the country, which country you are; so that your charge is to inquire whether he be guilty of the felony (or petit larceny) whereof he stands indicted, or not guilty: If you find him guilty, you shall say so, and inquire what goods and chattels he had at the time of the said felony and petit larceny committed, or at any time since: Or, if it be for felony above petit larceny, —then what goods and chattels, lands, and tenements, he had at the time of the said felony committed, or at any time since. If you find him not guilty, you shall inquire whether he did fly for it, and if you find that he fled for it, you shall inquire what goods and chattels he had at the time of such flight. If you find him not guilty, and that he did not fly for it, you shall say so and no more; and so hear your evidence. 2 *H. H.* 293, 294. *Dalt. c.* 185.

For, strictly speaking, though a man be acquitted, yet if he fled for the offence, he shall forfeit his goods and chattels: for the very flight is an offence, carrying with it a strong presumption of guilt, and is at least an endeavour to elude and flile the course of justice prescribed by the law. But the jury very seldom find the flight; forfeiture being looked upon since the vast increase of personal property of late years, as rather too large a penalty for an offence, to which a man is prompted by the natural love of liberty. 4 *Bl. Com.* 387.

Flying for the offence.

Then call the witnesses, and swear them, one by one, thus; *The evidence that you shall give between our sovereign lord the king and the prisoner at the bar shall be the truth, the whole truth, and nothing but the truth; So help you God.*

Witnesses sworn.

When the witnesses for the king have been examined, if the prisoner desires that any witnesses should be examined for him, they must be examined also on oath.

Witnesses for the prisoner.

On trials of this nature, the prisoner shall not have counsel allowed to him, unless a point of law arise, proper to be debated; nor a copy of the indictment. 2 *Haw. c.* 39. *f.* 2. 13.

Prisoner not to have counsel.

But in offences under felony, a defendant may be heard by his counsel. *Wood's Inst. b.* 4. *c.* 5.

And of late years the judges have seldom refused to allow the prisoner counsel to stand by him at the bar, and instruct him what questions to ask, or even to ask questions for him, in matters of fact. 4 *Bl. Com.* 356.

And

Court to be of counsel with him.

And at this day it is the practice never to object to the allowance of counsel, if the prisoner can procure them. If there be none other, the court is to be of counsel with the prisoner, and ought to advise him for his good, and not take advantages too strictly against him. *Dalt. c. 185.*

Evidence summed up.

When the prisoner hath done, and hath been heard all that he has to say in his defence, the evidence is summed up by the court to the jury. And if they cannot agree on their verdict at the bar, a bailiff must be sworn to keep the jury thus; *You shall swear that you shall keep this jury without meat, drink, fire, or candle; you shall suffer none to speak to them, neither shall you speak to them yourself, but only to ask them whether they are agreed? So help you God. Dalt. c. 185.*

Verdict.

The Jury coming back, the prisoner is brought to the bar; then the jury is called; they appearing, say, let *A. B.* to the bar; who being there say, Look upon the Prisoner; how say you, is *A. B.* guilty of the felony (or as the case is) whereof he stands indicted, or not guilty? If they say not guilty, bid him down upon his knees. If they say, guilty; record it, and bid him be taken away. Then say, hearken to the verdict as the court hath recorded it; You say *A. B.* is guilty [or, is not guilty] of the felony whereof he stands indicted. *Id.*

Judgment.

Then make a proclamation and say, All manner of persons keep silence, whilst judgment is giving against the prisoner at the bar, upon pain of imprisonment. Then let the prisoner to the bar, and give the sentence. *Id.*

Prisoners discharged may be conveyed by a vagrant pass.

And by 32 G. 3. c. 45. Any judge of assize, or justices in sessions, or any justice of the peace, may order any convict, upon his discharge from prison, and also any person who shall be acquitted at the assizes or sessions, or discharged by proclamation or otherwise, to be conveyed by a vagrant pass as directed by 17 G. 2. c. 5. who shall by himself or any other person apply to such court or justice to be so conveyed; and the judge, justices, or justice aforesaid, shall certify in such pass, that the person so conveyed was discharged from prison, or acquitted, or otherwise discharged at the assizes or sessions, as the case may be; for which pass no fee shall be paid. *f. 4.*

Adjournment of the sessions.

Where the sessions is adjourned, the style of the sessions ought not to run *at such a sessions held by adjournment*; but the original meeting of the sessions ought to be set forth and that it was continued from thence to such further time by adjournment. 2 Str. 832. 865

But such adjournment ought not to be beyond the time of meeting of the next quarter sessions. As in the case of *R. v. Grince, T. 4 G.* An indictment was found before the justices for the county of Lincoln against a constable for refusing

refusing to obey an order of the justices; and the defendant was tried, convicted, and had judgement given against him, at a general sessions held the 3d day of *May* (which was after the *Easter* sessions began) by the adjournment of the *Epiphany* sessions; but by the court of king's bench the judgement was reversed; because the justices cannot continue one general sessions to a day subsequent to the time appointed by the 2 *H. 5. c. 4.* for the holding another original sessions. 19 *Viner*, 358.

By the 12 *R. 2. c. 10.* 'The justices shall take for their wages 4s. the day for the time of their sessions, and their clerk 2s. of the fines and amerciaments rising and coming of the same sessions, by the hands of the sheriffs. And the lords of franchises shall be contributory to the said wages, after the rate of their part of fines and amerciaments.

Wages of the justices and estreats.

But no duke, earl, baron, or banneret, shall take any wages. 14 *R. 2. c. 11.*

And the estreats of the justices shall be doubled, and the one part delivered by them to the sheriff, to levy the money thereof rising, and thereof to pay the justices their wages by the hand of the sheriff, by indenture betwixt them thereof to be made. *Id.*

The fees in sessions for traversing, trying, or discharging indictments, discharging recognizances of the peace and good behaviour, and the like, do vary according to the custom of the country; and in that case the custom of the place is to be observed. *Dalt. c. 41.*

Fees in sessions.

By *Holt Ch. J.* The court cannot commit for non-payment of fees; for if there be right, there is remedy; and *indebitatus assumpsit* will lie, if the fee be certain; if uncertain, *quantum meruit.* 2 *L. Raym.* 703.

With regard to the allowances to constables and others by justices in sessions, vide *Stat. 18. G. 3. c. 19.* stated under *ut. Constable.*

Precept to summon the sessions.

Westmorland. J. P. and K. P. esquires, justices of our sovereign lord the king, assigned to keep the peace in the county of ———— aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors committed in the said county, and one of us of the quorum; To the sheriff of the same county, greeting; On the behalf of our said sovereign lord the king, we command you that you omit not, by reason of any liberty within your county, but that you enter therein, and that you cause to come before us, or others, justices assigned to keep the peace in the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county, committed,

Sewers.

BY the 23 *H. 8. c. 5.* Commissions of sewers shall be issued in all parts of the realm, where need shall require.

And by the 13 *El. c. 9.* For one year after the expiration of a commission of sewers the justices of the peace, or six of them (2 *Q.*), may execute the powers of the said commission, unless a new commission shall be issued in the mean time.

But as the power and authority of these commissioners of sewers is not general enough to fall in with the design of this book, I shall chuse to refer those whom it may particularly concern to the statutes at large which treat of this title; namely,

23 *H. 8. c. 5.*

25 *H. 8. c. 10.*

3 & 4 *Ed. 6. c. 8.*

7 *An. c. 10.*

Besides which general acts, there are others which concern the cities of *London* and *Westminster* only, and other places within the bills of mortality; to wit,

3 *J. c. 14.*

19 *C. 2. c. 3. f. 20.*

22 & 23. *C. 2. c. 17.*

2 *W. 1. c. 8.*

8 & 9 *W. c. 37.*

The commissioners of sewers have jurisdiction over a sewer communicating with a navigable stream, or with the sea above the point where the tide ebbs and flows, if it be useful for navigation, and if the place over which the jurisdiction is, or is likely to be benefited by it. 2 *T. R.* 358.

Sewer rates may be made to reimburse the charges of making such sewers. 2 *Str.* 1127.

Sea-wall thrown
down by tempest.

It hath been determined that if a sea-bank or wall, which the owners of particular lands are bound to repair, be destroyed by tempest, without any default in such owners, the commissioners of sewers may order a new one (in a different form if necessary) to be erected at the expence of the whole level. 8 *T. R.* 312.

See the cases of the *K. v. the Commissioners of Sewers Somerset*, 8 *E. R.* and 9 *E. R.*

Sheep.

[35 H. 8. c. 13.—22 & 23 C. 2. c. 7.—9 G. c. 22.—
14 G. 2. c. 6.—15 G. 2. c. 34.—38 G. 3. c. 65.]

BY the 25 H. 8. c. 13. For the preventing many farms being accumulated into few hands, and for the encouragement of tillage, it is enacted that no person shall have above 2000 sheep at one time, at six score to the hundred, except it be upon his own inheritance only, and except what are necessary for his household; on pain of forfeiting 3s. 4d. for every sheep above that number, half to the king, and half to him that will sue.

None shall have
above 2000
sheep.

And if any person shall happen to have more, by reason of being executor, or administrator, he shall sell off within a year, till he have 2000.

But sheep bequeathed to a child within age, shall not be reckoned in the number.

Lambs are not to be reckoned sheep, till the second *Midsummer* after they are lambd.

When lambs are
deemed sheep.

And the justices of the peace may enquire of this offence by a jury, or by information.

For the same reason, no person shall take above two farms with houses thereon; nor shall any person have two, except he dwell in the parish where they both are; on pain of 3s. 4d. a week in like manner. *Id.*

None shall have
above two farms.

If any person shall in the night time maliciously and wilfully kill any sheep, he shall be guilty of felony: but to avoid judgment of death, he may make his election to be transported for seven years. And three justices (1 *Q.*) may hear and determine the same. 22 & 23 C. 2. c. 7. *f.* 2.

Killing sheep in
the night.

If any person shall in the night time maliciously and wilfully maim, wound, or otherwise hurt any sheep whereby the same is not killed; he shall forfeit to the party grieved treble damages, by action of trespass or on the case. 22 & 23 C. 2. c. 7.

Hurting sheep in
the night.

And by the Black Act 9 G. c. 22. maliciously killing, wounding, or maiming *any cattle*, is felony without clergy.

If any person shall feloniously drive away, or in any other manner feloniously steal, any sheep or lamb; or shall wilfully kill any sheep or lamb, with a felonious intent to steal the carcase or any part thereof; or shall assist or aid in committing any the said offences; he shall be guilty of felony without benefit of clergy. 14 G. 2. c. 6. *f.* 1. 15 G. 2. c. 34.

Sheep stealing
or killing, 10l.
reward.

And every person who shall apprehend and prosecute to conviction any such offender shall have a reward of 10l.; in order to which, he shall have a certificate signed by the

judge, before the end of the assizes, certifying such conviction, and where the offence was committed, and that the offender was apprehended and prosecuted by the person claiming the reward; and if more than one claim the reward, he shall therein appoint what share shall be paid to each claimant; which certificate being tendered to the sheriff he shall pay the same within a month, without deduction, on pain of forfeiting double, with treble costs: The same to be allowed on his accounts, or to be repaid him out of the treasury. 14 G. 2 c. 6. §. 2. 3.

Turning out
scabbed sheep on
commons, &c.

By 38 G. 3. c. 65. If any person after 25th December 1798 shall turn out keep or depasture upon any forest, chase, wood, moor, marsh, heath, common, waste land, open field, or other undivided or uninclosed land, any sheep or lambs infected with the disorder called *scab* or *mange*; or shall wilfully and knowingly turn out keep or depasture upon any such place any sheep or lamb which at any time within six calendar months immediately previous thereto shall have been infected as aforesaid; he shall, on conviction, on confession, or oath of one witness, before one justice, forfeit not exceeding 10l. nor less than 20s. for every such offence, and as often as the same are so turned out; together with reasonable costs to be ascertained by such justice. §. 1.

Sheep and lambs
3 months old to
be marked.

The owner of every sheep or lamb 3 months old, which shall be turned out upon any such place as aforesaid, shall cause the same to be marked with the initial letters of his christian and surname, or with such marks with which such sheep or lambs have for 3 preceding years been usually marked, such letters and mark not being less in length than 3 inches; and on neglect the owner shall for every such sheep and lamb not so marked forfeit not exceeding 2s. for every time so turned out as aforesaid §. 2.

Persons having a
right on com-
mons, &c. may
complain to a
justice, and have
suspected sheep
examined.

And any person having sheep or lambs actually depasturing or entitled to be depastured on any such place as aforesaid, who shall perceive or have reasonable ground for believing that there is any sheep or lamb depasturing or upon such place contrary to the provisions of this act, may apply to a justice, who on complaint upon oath may issue his warrant, directed to the keeper of such forest or chase, or his deputy, or to the petty constable of any parish or place within or near which any such forest or place shall be situate, or other person willing to be inserted in such warrant, and shall command such person to take or drive such sheep and lambs to the next pound or other convenient place, there to be examined by the person who made such complaint his servant or agent, and person to whom such warrant is directed, or any of them, six hours notice being first given by the person making such complaint, or by his servant, to the owner,

owner, or to his hind, bailiff, or servant, or left at their last or usual place of abode, if any or either them be known, and do reside in such parish or place, describing the pound or place the same have been taken to, in order that they may be present at such examination; and if after such examination it shall be proved to the satisfaction of such justice that such sheep or lambs have not been kept or depastured on such lands contrary to the provisions of this act, then they shall be taken and driven back to the place from whence they were taken: And such justice shall award such costs and damages to the owner as to him shall seem reasonable, to be paid by the person making such complaint, and recovered in like manner as other penalties are by this act directed to be recovered. *f. 3.*

If not found defective to be returned.

But if upon such examination it shall appear to such justice, that such sheep or lambs when turned out, kept or depastured, or within six months previous thereto, were infected as aforesaid, then such justice shall direct the same to be impounded detained and kept, and to be marked on both sides with the letter S. (not less than 5 inches in length), and made with pitch or tar or some other adhesive material, such as sheep hath been usually marked with in the neighbourhood; and shall also cause the left ear of such sheep and lamb to be cut or slit in an horizontal line (not exceeding one inch long), and when so marked, shall be delivered upon demand to the owner; and the expences attending the taking, driving, keeping, impounding, and marking of the same, having been ascertained by such justice, shall be paid by such owner, together with the penalties imposed by this act; to be recovered as other penalties hereby imposed. And such mark when made shall be deemed evidence of the fact, that they have been turned out, kept or depastured contrary to this act, without any other evidence. *f. 4.*

If found defective to be marked.

If any person, within 6 calendar months after such sheep or lambs shall have been so marked, shall cut out, alter or destroy the said mark in the ear; or if the owner shall not immediately renew the mark made on the side as often as the same shall be defaced, altered obliterated or destroyed by any means whatsoever; he shall for every sheep and lamb forfeit on conviction, not exceeding 20s. nor less than 2s. and such justice shall order such mark to be renewed, and such sheep and lamb to be impounded until such mark is renewed. *f. 5.*

Persons destroying marks, and owners not renewing them.

And if such sheep or lamb so detained shall not be demanded and taken away by the owner within 5 days after having been so marked, any justice may by warrant direct the same to be sold; and the money arising thereby, after deducting the costs, shall be paid to the overseer of the poor of

Sheep not demanded in 5 days after marked may be sold.

the place where so detained: and in case the owner shall not claim such money within 12 calendar months after such payment, the same shall be applied in aid of the poor-rate. *s. 6.*

Penalties how to
be recovered and
applied:

All penalties and forfeitures by this act imposed shall be levied by distress and sale of the goods of the offender, by warrant of one justice, together with the costs; which warrant such justice shall grant upon conviction, by confession, or oath of one witness; half to the informer, and half to the overseer of the place where the offence shall be committed in aid of the poor-rate. *s. 7.*

Conviction and
adjudication.

The conviction and adjudication may be in the following form, or to the like effect;

Westmorland, } **BE** it remembered That on this — day
to wit. } of — in the — year of the reign
of — A. O. is convicted before J. P. one of his majesty's
justices of the peace for the — of — by virtue of an
act of parliament, made in the thirty-eighth year of the reign of
king George the third, intituled [here set forth the title of the
act (a) and specify the offence, and the time and place when
and where committed]; and I the said J. P. do adjudge him
to forfeit and pay for the same the sum of —. Given under
my hand and seal, &c.

Adjudication.

Westmorland, } **UPON** the report upon the oath of A. W.
to wit. } this — day of — in the year of our
Lord — made unto J. P. one of his majesty's justices of the
peace for the — of — respecting certain sheep [and
lambs] detained [or impounded] in a — in the parish of
— in the said county, by virtue of a warrant under my
hand and seal; I the said J. P. do hereby adjudge that such
sheep [and lambs] belonging to A. O. [or the owner thereof being
unknown], appearing to me to be infected with the scab or mange
[or having within the space of — months, immediately pre-
vious to the date hereof, been infected with the scab or mange], be
marked forthwith according to the directions of an act made in the
thirty-eighth year of the reign of king George the third, intituled,
[here set forth the title of the act]. Given under my hand and
seal, the day and year aforesaid. *s. 8.*

Appeal.

Provided always that if any person shall think himself ag-
grieved, he may appeal to the sessions which shall be holden
next after the expiration of 4 calendar months from the

(a) An act for preventing the depasturing of forests, commons,
and open fields, with sheep or lambs infected with the scab or
mange, in that part of Great Britain called England.

time such matter of appeal shall have arisen, and such session may hear and determine such appeal in a summary way, and make such determination and award such costs as they shall judge proper, which shall be final and conclusive. *f. 9.*

No distress shall be deemed unlawful for want of form, nor party deemed a trespasser *ab initio* on account of any irregularity afterwards done by the party distraining. And no proceedings shall be qualified for want of form, or be removable by *certiorari* or other process whatsoever. *f. 10. 12.*

Distress not deemed unlawful for want of form; nor proceeding to be removed by *certiorari*.

[For all matters relating to the exportation of live sheep, rams, and lambs; or carrying the same *coastwise*; or to the isles of *Jersey*, *Guernsey*, *Alderney*, *Sark*, and *Man*; see title *Woollen Manufacture*.]

Sheriff.

[13 Ed. 1. *ft.* 1. c. 39.—9 Ed. 2. *ft.* 2. — 4 Ed. 3. c. 9.—5 Ed. 3. c. 4. — 14 Ed. 3. c. 7. — 14 Ed. 3. c. 15. — 28 Ed. 3. c. 7.—1 R. 2. c. 11.—4 H. 4. c. 5.—1 H. 5. c. 4.—23 H. 6. c. 8. c. 10.—17 Ed. 4. c. 6.—19 H. 7. c. 10.—27 El. c. 12. *f.* 2. 4. 5. 6.—1 Mar. sess. 2. c. 8.—13 and 14 C. 2. c. 21.—3 G. c. 15. *f.* 4. 10. 18. 19. 21.—9 G. c. 9. *f.* 3. — 20 G. 2. c. 37. — 42 G. 3. c. 20, *f.* 172.]

SHERIFF (*Shireve*) in *Saxon* is *scirgerefa*, from *sciran*, to *share* or *divide*, for that the whole realm is parted and divided into *shires*; and *gerefa*, the *comes*, earl or governor, in the *Belgick*, called *graef* or *grave*. The word *comes*, or *count*, came first into *Europe* out of the eastern countries, probably from the *Hebrew* *cōne* or *cūne*, which denoteth strength, firmness, or stability; and the word *county*, in *Latin* *comitatus*, seemeth to be nothing else but the division or allotment over which the *comes* or *count* had jurisdiction. And when the counts or earls left the custody of the counties, then was the custody thereof committed to the *viscounts*, or *vice-countes* (which is the *Latin* name for sheriffs); so called because they supply the place of the *comes* or earl. The earl was otherwise called by the Saxons *eorl*, *ealdor*, *ealdorman*, (elder or alderman), because they were usually men of age and experience; by a like derivation as that of *senators* among the *Romans*.

Sheriff, what.

By four several statutes it is enacted that none shall be sheriff, except he have sufficient land within the shire to answer the king and his people. 9 Ed. 2. *ft.* 2. 4 Ed. 3. c. 9. 5 Ed. 3. c. 4. 13 Ed. 4 C. 2. c. 21.

Who shall be sheriff.

By the militia act, 42 G. 3. c. 90. No person during the time he is acting as a militia officer shall be obliged to serve the office of sheriff. *f. 172.*

Militia officers exempted;

And attorneys.

In the case of the city of *Norwich v. Berry*. T. 7 G. 3. it was adjudged that an attorney is exempted from the office of sheriff of a corporation, by reason of his attendance on the courts at *Westminster*; and though Lord *Mansfield* distinguished this office in a corporation from that of the sheriff of a county, he seemed to think the privilege extended equally to the latter. 4 *Burr.* 2109.

The payment of the fine, fixed by 9 G. 1. c. 9. s. 3. to be discharged from serving the office of sheriff of *Norwich* does not exempt the person paying it for more than one year, unless the corporation agree that he shall be discharged for a longer time. *R. v. Woodrow*. 2 T. R. 731.

How chosen,

At the common law the sheriff was chosen by the county; but by the statute of the 14 Ed. 3. c. 7. he shall be appointed yearly on the morrow of *All Souls*, (since altered to the morrow of *St. Martin*.) at the exchequer, by the chancellor, treasurer and chief baron, taking to them the chief justices.

His oath of office.

Except in *London*, and where the office is a man's freehold or inheritance. 23 H. 6. c. 8.

The sheriff (except in *Wales* and *Chester*) at the entering upon his office shall take the following oath (to be administered in pursuance of a writ of *dedimus potestatem*);

I A. B. do swear That I will well and truly serve the king's majesty in the office of sheriff in the county of. ——— and promote his majesty's profit in all things that belong to my office, as far as I legally can or may. I will truly preserve the king's rights, and all that belongeth to the crown; I will not assent to decrease, lessen, or conceal the king's right, or the rights of his franchises: And whensoever I shall have knowlege that the rights of the crown are concealed or withdrawn, be it in lands, rents, franchises, suits, or services, or in any other matter or thing, I will do my utmost to make them be restored to the crown again; and if I may not do it myself, I will certify and inform the king thereof, or some of his judges. I will not respite or delay to levy the king's debts, for any gift, promise, reward, or favour, where I may raise the same without great grievance to the debtors. I will do right as well to poor as to rich, in all things belonging to my office. I will do no wrong to any man, for any gift, reward, or promise, nor for favour or hatred. I will disturb no man's right, and will truly and faithfully acquit at the exchequer all those of whom I shall receive any debts or duties belonging to the crown. I will take nothing whereby the king may lose, or whereby his right may be disturbed, injured, or delayed. I will truly return and truly serve all the king's writs, according to the best of my skill and knowlege. I will take no bailiffs into my service but such as I will answer for, and will cause each of them to take such oaths as I do, in what belongeth to their business and occupation. I will truly set and return reasonable and

and due issues of them that be within my bailiwick, according to their estate and circumstances, and make due panels of persons able and sufficient, and not suspected, or procured, as is appointed by the statutes of this realm. I have not sold or let to farm, nor contracted for, nor have I granted or promised for reward or benefit, nor will I sell or let to farm, or contract for, or grant for reward or benefit, by myself or any other person for me, or for any use, directly or indirectly, my sheriffwick, or any bailiwick thereof, or any office belonging thereunto, or the profits of the same, to any person or persons whatsoever. I will truly and diligently execute the good laws and statutes of this realm; and in all things well and truly behave myself in my office, for the honour of the king and the good of his subjects, and discharge the same according to the best of my skill and power: So help me God. 3 G. c. 15. f. 18, 19.

By the 4 H. 4. c. 5. The sheriff in person shall continue within his bailiwick, and shall not let it to farm.

Sheriff selling inferior offices.

And by the 3 G. c. 15. f. 10. None shall buy, sell, let or take to farm the office of under sheriff, gaoler, bailiff, or other office pertaining to the office of high sheriff; on pain of 500*l.* half to the king, and half to him that shall sue (in two years).

By the 1 H. 5. c. 4. No under sheriff, sheriff's clerk, receiver, nor sheriff's bailiff, shall be attorney in the king's courts, during the time that he is in office with any sheriff.

Sheriff's officers not to be attorneys or jurors.

And the sheriff shall return none of his officers upon inquest; on pain of 40*l.* half to the king, and half to him that shall sue, in the sessions, or elsewhere. 23 H. 6. c. 10.

The under sheriff shall be appointed by the high-sheriff, because he shall answer for him, and he shall take the like oath as the high sheriff, *mutatis mutandis*. 3 G. c. 15. f. 19.

Appointment of the under sheriff.

The sheriff is answerable for the official acts of his under-sheriff. 1 Doug. 43. n.

An under-sheriff cannot refuse to execute process, till he has his fees, *Hefcott's case*. 1 Salk. 330.

An inquisition, taken before two under-sheriffs extraordinary, set aside: for the high-sheriff can appoint only one under-sheriff extraordinary. 2 Wils. 378.

The bailiffs also shall be appointed by him for the like reason; and every bailiff, when he gives security upon entering into his office, shall make it part of the condition of such security that he will deliver a copy of the clauses in the act of the 32 G. 2. c. 28. concerning the carrying of prisoners for debt to alehouses, which is inserted more at large in title Gaoler.

Appointment of bailiffs.

And such bailiff, or other person returning juries, or intermeddling with processes, shall take the following oath of office, before a judge of assize, on the *custos rotulorum*, or two justices of the peace (1 Q.) ;

J. A. B., shall not use or exercise the office of bailiff corruptly during the time that I shall remain therein, neither shall or will accept receive or take by any colour, means, or device whatsoever, or consent to the taking of any manner of fee or reward of any person or persons for the impaneling or returning of any inquest, jury, or tales, in any court of record, for the king, or betwixt party and party, above 2s. or the value thereof, or such fees as are allowed and appointed for the same by the laws and statutes of this realm, but will according to my power truly and indifferently, with convenient speed, impanel all jurors, and return all such writ or writs touching the same, as shall appertain to be done by my duty or office, during the time that I shall remain in the said office. So help me God. 27 El. c. 12. s. 2.

Persons acting before they have taken the said oath shall forfeit 40l. ; half to the king, and half to him that shall sue in the sessions, or other court of record. *Id.* s. 4. 6.

If they commit any act contrary to their said oath, they shall forfeit (in like manner) to the party grieved his treble damages. *Id.* s. 5.

And the sheriff's bailiffs shall not be in the same office in three years after. 1 H. 5. c. 4. Except in London, Middlesex, Durham, Westmorland, and towns being counties of themselves. 3 G. c. 15. s. 21.

For all civil purposes, the act of the bailiff is the act of the sheriff. 2 T. R. 148.

In an action of trespass against the sheriff for the wrongful act of a bailiff, it is not sufficient in order to affect the sheriff to prove that he is a general bailiff, and had given a bond of indemnity to the sheriff as such, and to prove a copy of the warrant under which he entered and seized the plaintiff's goods; but the privity between the bailiff and sheriff must be established in the particular transaction on the best evidence, by proving the original warrant of the execution from the sheriff to the bailiff, or at least by proving notice to produce it, so that in case of non-production of it, secondary evidence of its contents may be let in. *Drake v. Sykes.* Bart. 7 T. R. 113.

The sheriff and bailiff are not both answerable in an action for a penalty for the same act. 2 T. R. 712.

But, after verdicts in both actions, the court will stay proceedings in both on paying one penalty, and the costs in one action. *Ibid.*

Where a special bailiff is nominated by the plaintiff or his agent, the sheriff is not bound to return the writ. *Hamilton v. Dalziel.* 2 Blackst. R. 952; 4 T. R. 119.

Though a sheriff appoint special bailiffs to arrest the defendant at the plaintiff's request, the sheriff is still responsible for the defendant after arrest made. *Taylor v. Richardson.* 8 T. R. 505.

It seems that an action may be maintained against the sheriff for the penalty, given by stat. 29 Eliz. c. 4. for the acts of his bailiff. 2 T. R. 155 & seq.

But all actions, for breach of duty of the office of sheriff, must be brought against the *high sheriff*, though in consequence of the default of the *under sheriff* or bailiff. *Cameron v. Reynolds. Corp. R. 403.*

The sheriff hath a jurisdiction both in criminal and civil cases; and for this purpose he hath two courts, his *tourn* for criminal causes, which is therefore the king's court; the other is his *county court* for civil causes, and this is the court of the sheriff himself. 3 Salk. 322.

The sheriff's two courts, the *tourn*, and county court.

The new sheriff being appointed and sworn, he ought at or before the next county court to deliver a writ of discharge to the old sheriff, who is to set over all the prisoners in the gaol severally by their names (together with all the writs) precisely, by view and indenture between the two sheriffs; wherein must be comprehended all the actions which the old sheriff hath against every prisoner, though the executions are of record. And till the delivery of the prisoners to the new sheriff, they remain in the custody of the old sheriff, notwithstanding the letters patent of appointment, the writ of discharge, and the writ of delivery. Neither is the new sheriff obliged to receive the prisoners, but at the gaol only. But the office of the old sheriff ceases, when the writ of discharge cometh to him. *Wood's Inst. b. 1. c. 7.*

Sheriff's receiving the accounts of his predecessor.

By the 20 G. 2. c. 37. The old sheriff shall turn over to his successor, by indenture and schedule, all such writs and process as shall remain unexecuted; and the new sheriff shall execute and return the same.

When a sheriff quits his office, the custody of the county gaol can only belong to his successor. The county gaol is the prison for malefactors, and the sheriff ought to keep them there; but prisoners for debt &c. where escape lies against the sheriff for their escape, may be kept in what place the sheriff pleases. 1 L. Raym. 136.

The sheriff having a justice of the peace's warrant directed to him shall execute the same; but he need not go in person to execute it, but may authorize another to do it. 2 Haw. 6. 13. f. 29.

Sheriff how far amenable to the justices of the peace.

And it is no excuse to the sheriff to return that he could not execute a precept because of resistance; for he may take with him the power of the county. 13 Ed. 1. f. 1. c. 39.

Also the sheriff, on summons, is bound to attend the sessions of the peace, there to return his precepts, to take the charge of the prisoners, to receive fines for the king, and the like. 2 Haw. c. 8. f. 45.

And it seems clear from the general reason of the law, which

which gives all courts of record a kind of discretionary power over all abuses by their own officers, that the sheriff is punishable by the justices in sessions for defaults in executing their writs and precepts. 2 *Haw. c. 22. f. 2.*

In the case of *Bengough* and another v. *Rossiter*, *H. 32. G. 3.* it was determined that a sheriff has no authority to take a *bond* for the appearance of persons arrested by him under process issuing upon an indictment at the quarter sessions for a misdemeanor; he can only take a *recognizance* for their appearance. 4 *T. R. 505.*

Sheriff a conservator of the peace, but not to act as justice.

Every sheriff is a principal conservator of the peace, by the common law, and may *ex officio* award process of the peace and take surety for it; and it seems to be the better opinion, that the security so taken by him is by the common law looked on as a recognizance or matter of record, and not as a common obligation. 2 *Haw. c. 8. f. 4.*

But no sheriff shall exercise the office of a justice of the peace in any county wherein he is sheriff; and in such case, his acts as a justice shall be void. 1 *Mar. sess. 2. c. 8.*

Sheriff to have the keeping of gaols.

By the 14 *Ed. 3. c. 10.* and 19 *H. 7. c. 10.* The sheriff shall have the keeping of gaols.

And in all *civil* causes, as in cases of imprisonment for debt, the sheriff or gaoler (at the election of the party) shall be answerable for escapes suffered by the gaoler; but if the gaoler suffer a *felon* voluntarily to escape, this, inasmuch as it reacheth to life, is felony only in the gaoler, but the sheriff may be indicted, fined, and imprisoned. 1 *H. H. 597.*

Sheriff answerable for money levied by him.

Where the sheriff levies money on a *fieri facias*, the plaintiff may have an action of debt against him for the money, because it was received by him to the plaintiff's use, and the defendant is discharged of it; and it lies against his executor if he die. 3 *Salk. 323.*

Passing his accounts.

The manner of passing his accounts is directed at large by the statutes of the 3 *G. c. 15 & 16*, which being foreign to our purpose, are not here inserted.

Paying rewards for convicting offenders.

But after the sheriff hath paid the rewards for apprehending highwaymen, housebreakers, and such like, he shall not be obliged to tarry until the passing of his accounts for the repayment thereof, but he may immediately apply to the commissioners of the treasury, who shall upon inspecting the certificate of the conviction, and the receipts of the persons to whom the rewards were paid, forthwith repay the same to the sheriff without fee. 3 *G. c. 15. f. 4.*

How long he shall continue in office.

No sheriff shall continue in his office above one year, 14 *Ed. 3. c. 7.* 28 *Ed. 3. c. 7.* Except in *London, Middlesex*, and towns being counties of themselves, and where the office is a man's freehold, or inheritance. 23 *H. 6. c. 8.* 3 *G. c. 15. f. 21.*

And

And by the 1 R. 2. c. 11. None that hath been sheriff shall be so again within three years, if there be other sufficient.

But by the 17 Ed. 4. c. 6. The sheriff may hold his office after the year, during *Michaelmas* and *Hilary* terms, if not before lawfully discharged.

If the sheriff shall die before his office shall be expired, the under sheriff shall execute the same in the deceased sheriff's name till a new sheriff be sworn, and be answerable for the execution thereof as the deceased sheriff would have been. 3 G. c. 15. s. 8.

Sheriff dying before the expiration of his office.

Ships.

If any owner of, or captain, master, mariner, or other officer belonging to any ship, shall wilfully cast away, burn, or otherwise destroy the ship of which he is owner, or unto which he belongeth, or in any wise direct or procure the same to be done; with intent to prejudice any person that shall underwrite any policy of insurance thereon, or any merchant that shall load goods thereon; he shall be guilty of felony without benefit of clergy. 11 G. c. 29. s. 6.

Wilfully destroying.

And if any of the said offences are committed within the body of a county, they shall be tried there; if on the high seas, they shall be tried as in cases of piracy, under the statute 28 Hen. 8. s. 7.

Upon this statute *W. Codling* the master of the ship, was indicted at the Admiralty Sessions October 1802, for wilfully destroying the ship on the high seas, and *W. Macfarlane* and *G. Easterby*, the owners of the ship, for procuring the master on the high seas to destroy the ship, with intent to defraud the underwriters. *Codling* the master was convicted and executed: but as the owners had only given orders when on shore to the master to effect this purpose, it was objected that they had committed no offence within the jurisdiction of the Admiralty, and consequently were entitled to an acquittal. The jury found them guilty upon the facts; but the question of law was reserved for the consideration of the judges; who, after having heard the case twice argued, were all of opinion that as no act had been done by the owners within the jurisdiction of the Admiralty, they were not subject to that jurisdiction, and consequently that the trial was improperly had. 1 East's P. C. Addenda 26.

Persons wilfully casting away, or otherwise destroying vessels, to suffer death.

Soon after this decision, an act was passed, 43 G. 3. c. 113., which, after reciting that the provisions of the Stat. 11 G. 1. c. 29. and a prior statute, 4 G. 1. c. 12. were ineffectual for the prevention

prevention and punishment of the offences therein mentioned, repeals them; and then enacts that if any person shall after the 16th of *July* 1803, wilfully cast away burn or otherwise destroy any vessel, or in any wise counsel direct or procure the same to be done, and the same be accordingly done, with intent thereby wilfully and maliciously to prejudice any owner thereof, or any owner of any goods laden on board the same, or any person, body politic or corporate, that hath underwritten or shall underwrite any policy of insurance upon any such vessel, or on the freight thereof, or upon any goods laden on board the same, the offender, being lawfully convicted thereof, shall be adjudged a principal felon, and shall suffer death without benefit of clergy. *f. 2.*

Where such offences, committed within the body of any county, or on the high seas, may be tried.

And if any such vessel shall be wilfully cast away, burnt, or otherwise destroyed, within the body of any county, then the said several offences, as well in wilfully casting away, burning, or otherwise destroying such vessel, as in counselling, directing, or procuring the same to be done, shall be respectively inquired of, tried, determined, and adjudged in the same courts and in such manner as felonies done within the body of any county, by the laws of this realm now are to be, or by virtue of this act hereafter may be, inquired of and tried. And if any vessel shall be wilfully cast away, burnt, or otherwise destroyed, on the high seas, then the said several offences as well in wilfully casting away &c. as in counselling, directing, &c. may be inquired of tried and determined in the same manner and before such court as is appointed by the 28 *H. 8. c. 15.* for inquiring, trying, and adjudging felonies upon the high seas. *f. 3.*

But this act is not to bar prosecutions for offences committed against the 4 *G. 1. c. 12. f. 3.* and 11 *G. 1. c. 29; f. 5, 6, 7.* before the 16th *July* 1803. *f. 4.*

In the case of accessories to any felony before the fact, whether the principal felony be committed within the body of any county or upon the high seas, and whether the procuring &c. or abetting, or otherwise becoming accessories before the fact be committed within the body of any county or upon the high seas, the offence of such accessories may be tried (in case the principal felony was committed within the body of any county) by the course of the common law, either within the county where the principal felony was committed, or in the county where the offence of becoming accessory before the fact was committed; and in case the principal felony was committed upon the high seas, then the offence of becoming accessory before the fact may be tried in such court &c. as is directed by statute 28 *Hen. 8. c. 15.* for trying felonies committed upon the high seas. Provided that no person shall be tried more than once for the same offence of being accessory before the fact. *f. 5.*

By the 12 *Ann. st. c. 18.* and 26 *G. 2. c. 19.* If any person shall plunder any ship in distress, or wilfully do any thing tending to the immediate loss of such ship; he shall be guilty of felony without benefit of clergy.

Plundering or destroying a ship in distress.

All persons who shall feloniously steal any goods of the value of 40s. in any ship, boat, or vessel, on any navigable river, or in any port of entry or discharge, or from any wharf or key, or shall be present and assisting therein; he shall be guilty of felony without benefit of clergy. 24 *G. 2. c. 45. (a)*

Stealing goods from on ship-board.

If any person shall, either within this realm, or any of the countries, islands, forts, or places thereunto belonging, wilfully and maliciously set on fire or burn or otherwise destroy any of his majesty's ships or vessels of war, whether the same be on float, or building in any of his majesty's dock yards, or building or repairing by contract in any private yard; or any of his majesty's arsenals or magazines, dock yards, rope yards, victualling offices, or any of the buildings erected therein, or belonging thereto; or any timber or materials there placed, for building, repairing, or fitting out ships or vessels; or any of his majesty's military, naval, or victualling stores, or other ammunition of war; or any place where any such military, naval, or victualling stores, or other ammunition of war shall be kept; he, and also his aiders and abettors, shall be guilty of felony without benefit of clergy.

Burning or destroying his majesty's shipping or stores.

12 *G. 3. c. 24.*

Persons committing any of the said offences in any place out of the realm, may be indicted and tried for the same, either where the offence was committed, or in any county within this realm, as if the same had been committed within such county. *Id.*

By the 33 *G. 3. c. 67. (b)* If any seamen, keelmen, casters, ship carpenters, or other persons, riotously assembled together to the number of three or more, shall unlawfully and with force prevent hinder or obstruct the loading, sailing, or navigating of any ship, keel, or other vessel, or board the same with that intent; or if any such seamen or other person as aforesaid shall unlawfully and with force prevent hinder or obstruct any seamen, keelmen, caster, or ship carpenter from working at his lawful trade or occupation, or wilfully and maliciously assault, beat, or wound, or commit any bodily violence or hurt to any such person, with intent to deter prevent hinder or obstruct him from working at or exercising his lawful trade; every such person shall, on con-

Seamen, &c. riotously assembled to prevent loading of vessels, &c.

Or to prevent carpenters and others from working.

(a) See title *Martens VI.*

(b) This act was at first temporary; but by 41 *G. 3. c. 19. s. 1.* it is made perpetual.

viction, upon indictment at the assizes or quarter sessions, be committed to the common gaol without bail, (or to the house of correction, there to be kept to hard labour,) for any time not exceeding twelve nor less than six calendar months.

f. 1, 2.

Offending a second time.

And if any such person so convicted as aforesaid shall afterwards offend again in like manner, and shall be convicted thereof by indictment at the assizes or quarter sessions, he shall, for such second and every subsequent offence be deemed guilty of felony, and be transported for any time not exceeding fourteen nor less than seven years. f. 3.

Not to extend to his majesty.

But none of the penalties or punishments herein inflicted shall extend to matters done in the service or under the authority of his majesty. f. 4.

Wilfully setting fire to ship,

If any such seaman, or other person, shall wilfully and maliciously burn or set fire to any ship, keel, or other vessel, he shall, on conviction at the assizes, be adjudged guilty of felony without benefit of clergy. f. 5.

or damaging them by other means.

And if any such seaman, or other person, shall wilfully and maliciously destroy or damage any ship, keel, or other vessel, (otherwise than by fire,) he shall, on conviction at the assizes or quarter sessions, be adjudged guilty of felony, and be transported for any term not exceeding fourteen nor less than seven years. f. 6.

Offences committed on the high seas.

Offences committed on the high seas may be tried in any sessions of oyer and terminer &c. within the jurisdiction of the admiralty. f. 7.

Prosecutions to be commenced within a year.

Provided always, that all prosecutions by virtue of this act shall be commenced within twelve calendar months after the offence is committed. f. 8.

Masters detaining certificate of the ship's registry,

In order to prevent masters of vessels from detaining and refusing to deliver up certificates of the registry of vessels to the prejudice of the respective owners, it is enacted that, in case the master of any vessel, who shall have received the certificate of the registry thereof, whether he be part owner or not, shall wilfully detain and refuse to deliver up the same to the proper officers empowered to make registry, and grant a certificate thereof to the owner or owners, or the major part of them, if such master has not any property therein, or on the owners or major part of them, if such master hath any share or property therein, requiring him so to do, it shall be lawful for such owners, or the major part of the owners of such vessel, the certificate of the registry of which shall be so detained as aforesaid, to make complaint on oath against such master of such detainer and refusal to any justice residing near the place where such detainer shall be in the united kingdom, or to any member of the supreme court of justice, or any justice of the peace in

*Jersey, Guernsey, Alderney, or Man, or in any colony or territory of his majesty's in America or the West Indies, where such detainer and refusal shall be; and on such complaint the said justice or other magistrate is required, by warrant under his hand and seal, to cause such master to be brought before him to be examined touching such detainer and refusal; and if it shall appear to the said justice or other magistrate, on examination of such master or otherwise, that the said certificate of registry is not lost or mislaid, but is wilfully detained by the said master, such master shall be thereof convicted, and shall forfeit 100*l.* and on failure of payment thereof be committed to the common gaol without bail for such time as the said justice or other magistrate shall in his discretion deem proper, not being less than six months nor more than twelve months.* 42 G. 3. c. 61. *f.* 20.

to forfeit 100*l.*
or be imprisoned.

And the said justice or other magistrate shall certify such detainer refusal and conviction to the person who granted such certificate of registry of such vessel, who shall, on the conditions of law being complied with, make registry of such vessel *de novo*, and grant a certificate thereof conformably to law, notifying on the back of such certificate the ground upon which the vessel was so registered *de novo*. *f.* 21.

Such detainer to be certified, and a new certificate granted.

Shire hall.

[9 G. 3. c. 20. *f.* 1. 2. 3. 4.—14 G. 3. c. 59.]

THE justices in sessions, on presentment of the grand jury at the assizes of the ill state and condition of the shire hall, or other building commonly used for holding the assizes, and the necessity of repairing the same, may order it to be repaired in such manner as they shall think fit, and the money to be levied as for other county rates, 9 G. 3. c. 20. *f.* 1.

To be repaired by order of sessions.

And if there be occasion for sudden repairs, which will not cost more than 3*l.*, two justices, after having viewed the same, and an estimate having been made by able workmen of the expences thereof, may order it to be repaired, and the money to be levied as aforesaid, as if it had been presented by a grand jury. *f.* 3.

Sudden repairs.

Provided, that where the same hath for time out of mind been repaired at the expence of any particular places or persons, or any particular places or persons are bound by law and ancient usage to furnish the same with benches, tables, rails, or other fixtures; they shall continue liable as before. *f.* 2. 4.

When repaired by particular places or persons.

By

May be vent-
ilated.

By the 14 G. 3. c. 59. The justices in their quarter-sessions may direct the shire hall or other court of justice within their jurisdiction to be properly ventilated; the expences thereof to be paid out of the general county rate.

Shoemakers.

THE shoemakers duty, in the true making of shoes, is inserted in the title *Leather*.

Differences between shoemakers and their workmen, are treated of under the title *Servants*.

Silks.

[13 & 14 C. 2. c. 15. s. 2.—9 & 10 W. c. 43.—3 G. 3. c. 21.—5 G. 3. c. 48.]

THE duties on silks and calicoes being under the same regulations with the duties on printed linens, the law concerning them is inserted under the article of *linen cloth*, in the title *Crefse*.

Concerning servants and other workmen in the silken manufactories, see title *Servants*.

Silk thrower.

No person shall exercise the trade of a silk thrower, unless he hath served seven years apprenticeship; on pain of 40s. a month, half to the king, and half to him that shall sue in any court of record, or at the assizes, or at quarter sessions of the peace. 13 & 14 C. 2. c. 15. s. 2.

Alamodes and
lutestrings.

By the 9 & 10 W. c. 43. No foreign silks, called alamodes or lutestrings, shall be imported but in the port of London, on notice first given to the commissioners of the customs, and license had from them. s. 1.

And if they be imported elsewhere, or without such notice and license, and the duties paid, they shall be forfeited or the value thereof, and be sold and exported again; and the offender so importing, and also the receiver and person offering to sell the same, shall forfeit 500l. s. 3.

And the commissioners shall cause them to be marked and sealed. s. 2.

If any person shall counterfeit the customhouse seal, or seal of the lutestring company, he shall forfeit 500l. and be set in the pillory two hours. s. 5.

And any person who shall buy and sell or have in his custody any alamodes or lutestrings, sealed or marked with a counterfeit seal or mark, shall forfeit the same and 100l. s. 5.

Any person authorised by a writ of assistance under the seal of the exchequer, or with a constable or other public officer, inhabiting near the place, with a warrant from a justice of the peace and in the day time, may enter any house, shop, cellar, warehouse, or other place, to search for and seize any alamodes or lutestrings imported contrary to this act, or not sealed or marked, or marked with a counterfeit mark or seal, and in case of resistance may break open doors, chests, trunks, and other package; and every justice shall grant such warrant to any credible person making oath that he hath reason to suspect or believe that there are some of the said silks so fraudulently imported or not sealed and marked, or sealed or marked with a counterfeit seal or mark in the place or places where he intends to search. *f. 5.*

And all officers belonging to the customs, sheriffs, mayors, bailiffs, constables, and other officers, shall be aiding in the execution thereof. *f. 6.*

(But none but customhouse officers, or persons deputed by the lutestring company, and having writs of assistance from the exchequer, shall seize lutestrings or alamodes within the bills of mortality. *5 An. c. 20. f. 3.*)

The said penalties shall be two-thirds to the king, and one-third to him that shall seize or sue in any court of record. *f. 9.*

By the 3 *G. 3. c. 21.* & 5 *G. 3. c. 48.* If any person shall import any ribbands, laces, or girdles, not made in *Great Britain*, whether the same shall be wrought of silk alone or mixed with other materials, the same shall be forfeited, and may be seized by any officer of the customs in whatever importers venders or retailers hands they may be found; and the importer and every person assisting therein, and the venders and retailers in whose custody they shall be found, or who shall sell or expose the same to sale, or conceal with intent to prevent the forfeiture, shall forfeit respectively 200*l.* with costs. Half the said penalties to be to the king, and half to the officer who shall inform and prosecute.

Ribbands and
laces.

But if any officer of the customs shall neglect or refuse, for one month after condemnation, to prosecute to effect any person for any of the said pecuniary forfeitures, any other person may sue for and recover the same; half thereof to go to the king in like manner, and half to him who shall sue.

And when the goods seized (being out of the limits of the bills of mortality) shall not exceed the value of 20*l.*, two justices, on information before them that such goods were seized as unduly imported, may hear and determine the same, and proceed to condemnation or discharge.

After seizure, until condemnation or discharge, the said goods shall be deposited in one of the king's warehouses, if

the seizure be within the bills of mortality ; elsewhere, in the hands of the chief magistrate or constable ; and the same shall be free to inspection, with leave of the court, judge, or justices, before whom the prosecution shall be.

And after condemnation, the said goods shall be publicly sold by the candle for exportation ; half of the produce by such sale to be to the king, and half to the officer who shall seize and secure the same ; and the same goods shall not be delivered out of the warehouse till security shall be given for exportation, and that the same shall not be landed again in any part of his majesty's dominions.

On information in writing upon oath before two justices, that there is good ground and reason to suspect that such ribbands, laces, or girdles have been imported, and are concealed by or in the possession or custody of any retailer or seller of ribbands laces or girdles, they may issue their warrant to the constable or other peace officer, empowering him to search in the day time the houses, out-houses, warehouses, shops, cellars, rooms, and other places of such persons, and (if the same shall be found) to seize and carry away the same, and dispose thereof as is aforesaid.

If any doubt shall arise where the said goods were manufactured, the proof shall lie upon such person in whose custody they were found, and not upon the prosecutor : and if no proof shall be given that they were manufactured in *Great Britain*, the same shall without any further proceeding be taken to have been manufactured out of *Great Britain*.

Provided, that if any person, in whose possession such goods shall be seized (such person not importing or concealing the same,) shall discover upon oath before one justice the person who sold the same to him, so as he may be convicted as the seller thereof ; such person shall be discharged of all penalties and forfeitures inflicted by this act on venders or retailers having such goods in their possession.

Provided also, that nothing herein shall extend to subject any person who shall wear or make use of such ribbands, laces, or girdles, as part of their apparel or dress only, to any forfeiture or pecuniary penalty, or to any proof that they were manufactured in *Great Britain*.

By the 5 G. 3. c. 48. If any foreign manufactured silk stockings, silk mitts, or silk gloves, shall be imported into this kingdom, or any part of the *British* dominions, the same shall be forfeited, and liable to be searched for and seized as other uncustomed goods ; and every person who shall import the same, or be assisting therein, and the venders and retailers in whose custody they shall be found, or who shall sell or expose the same to sale, or conceal with intent to prevent the forfeiture, shall, over and above the forfeiture of the goods

Stockings,
mitts, and
gloves.

forfeit

forfeit 200*l.* with costs; half to the king, and half to the officer who shall inform and prosecute.

And when the goods seized (being out of the limits of the bills of mortality) shall not exceed the value of 20*l.*, two justices may proceed to the condemnation thereof. And the proceedings, in all other respects, shall be in like manner as in the case of ribbands and laces abovementioned.

Slander.

[3 Ed. 1. c. 34.—13 Ed. 1.—9 Ed. 3. c. 4.—2 R. 2. ft. 1. c. 5.—12 R. 2. c. 11.—21 J. c. 16.]

I Do not find it any where clearly settled how far slander or scandalous words become objects of the criminal jurisdiction, and so cognizable before justices of the peace, by reason of the different circumstances in matters of so indeterminate a nature; for the same words, when spoken of different persons, and even of the same person with a different emphasis and manner of delivering them, may receive a very different interpretation.

In general, it seemeth that words which directly tend to a breach of the peace, as if one man challenge another, are cognizable before justices of the peace; for which the party may be bound to the good behaviour, and even indicted. 2 *Salk.* 698. 1 *Keb.* 931.

But if they do not tend directly to a breach of the king's peace, but are matters only of private slander between party and party, which no way affect the public administration of justice, as in case where the common people are wont to call one another knaves, and rogues, and whores, and thieves; I do not find it asserted by any good authority that justices of the peace have any jurisdiction at all in such matters; but the proper remedy seems to be in one of these two ways, either by a prosecution in the spiritual court, or by an action upon the case at the common law.

In the former case, it is provided by the statute of *Circumspelle agatis*, 13 Ed. 1. and also by the statute of the 9 Ed. 3. c. 4. that in matters of defamation, no prohibition shall lie to the spiritual court from the courts temporal: but bishop *Gibson* says, that in order to secure causes of defamation in the spiritual court against prohibitions, they must have these two incidents: 1. That they concern matters merely spiritual. 2. That they concern mere spiritual matter only, and not mixt with any matters determinable at common law. And the prosecution in this court must be only for the punishment

Slander.

of sin, and the welfare of the soul ; for the party cannot sue there for amends or damages. *Gibf.* 1070.

The remedy in such case (as hath been said) must be by action in the courts temporal, if the words will bear it. But it seems very difficult, for the reasons abovementioned, to define what words are actionable, and what not ; which must be determined by the particular circumstances of each case. In general, it is actionable, if a man utter any slander or false tale of another, which may either endanger him in law, by impeaching him of some heinous crime, as to say that a man has poisoned another ; or is perjured ; or which may exclude him from society, as to charge him with having an infectious disease ; or which may impair or hurt his trade or livelihood, as to call a tradesman a bankrupt, a physician a quack, a lawyer a knave, and such like. 3 *Black.* 121.

By the 21 *J. c.* 16. Actions upon the case for slanderous words shall be brought within two years after the words spoken, and not after ; and if the jury find the damages under 40s., the plaintiff shall have no more costs than damages.

But if the words spoken be not in themselves actionable, and damages be given to the plaintiff for a consequential loss only, there the plaintiff may have full costs. And the distinction is this : The statute expressly mentions actions of *slander* ; but if the words are such, as give the party an action in respect to the special damage resulting therefrom, and are not in themselves actionable, it is not properly an action of slander, but a special action on the case ; and therefore is not within this statute. *E. 12 G. 2. Bask and Hickford.* Andr. 375.

M. 17 G. 2. Underwood and Parks. In an action for words, the defendant pleaded *not guilty*, and offered to prove the words to be true, in mitigation of damages. But *Lee Ch. J.* refused to admit the same, saying, that at a meeting of all the judges upon a case that arose in the common pleas, a large majority of them had determined not to allow it for the future, but that it shall be *pleaded*, whereby the plaintiff may be prepared to defend himself, as well as to prove the speaking of the words. 2 *Str.* 1200.

Finally, there is one species of slander, of which the law takes a more special notice ; and that is, when it relates to the great men of the realm ; concerning whom, it is enacted by the 3 *Ed. 1. c.* 34. 2 *R. 2. st.* 1. *c.* 5. and 12 *R. 2. c.* 11. *that none shall tell or publish any false news or tales, whereby discord or occasion of discord or slander may grow between the king and his people, or the great men of the realm ; and that none shall devise speak or tell any false news or lies of any prelates, lords, judges, or other great men of the realm, whereof any discord or slander may arise ; on pain of imprisonment, until he*

be both brought into court the first author of the tale ; if he cannot find the author, he shall be punished by advice of council.

Publsh any false news or tales] But this extends only to extrajudicial slanders ; 'or if a man charge them in due course of law, although the charge be false, yet there will lie no action *de scandalis magnatum*, neither at common law, nor by the statutes. 2 *Inst.* 228.

Smugglers. See *Excise*.

Snares. See *Game*.

Snuff. See *Tobacco*.

Soap. See *Excise*.

Sodomy. See *Buggery and Robbery*.

Spirituous Liquors. See *Excise*.

Squibs. See *Fireworks*.

Stabbing. See *Homicide*.

Stamps.

THE stamp laws, by length of time, have become somewhat intricate. In one of the acts relating to these duties, viz. 10 *An. c.* 19. there is a clause which brings all the rest within the jurisdiction of the justices of the peace, and almost the whole law relating to this title ; and is as follows :

Two justices residing near the place where any pecuniary forfeitures not exceeding 20*l.* on any act touching any of the duties under the management of the commissioners of the duties on stamped vellum parchment and paper shall be incurred, or any offence against any of the same acts shall be committed in anywise relating to the same duties, by which any sum of money only may be forfeited, may hear and determine the same ; who shall on information or complaint, within a year after the seizure made or offence committed, summon the party accused, and witnesses ; and may issue warrants for levying the penalties by distress and sale, if not redeemed in six days. 10 *An. c.* 19. *f.* 172.

And the said justices, where they see cause, may mitigate the penalties ; the charges being first allowed : and so as they reduce not the penalty to less than double duty, over and above the said charges. *f.* 173.

Persons aggrieved may appeal to the next sessions. *f.* 172.

And wheresoever any person shall be convicted before one or more justices for any offence against any act concerning the stamp duties, by which any pecuniary penalty is forfeited, the justice before whom such person shall be convicted, shall levy such penalty and apply the same, as by such act is directed ; and in default of sufficient direction, the same shall be applied, half to the king, and half to the person who shall prosecute

Power of the justices in relation to the stamp duties.

Jurisdiction of the justices.

Mitigation.

Appeal.

Application of the penalties.

prosecute for the same, if *within six months* after the offence is committed; but if *after six months* the whole shall go to the king. 26 G. 3. c. 82. s. 1, 2, 3.

Conviction.

And such justice may cause the conviction to be made out in the following form;

BE it remembered that on the ——— day of ——— in the ——— A. O. of ——— was duly convicted before me J. P. one of his majesty's justices of the peace for the county of ——— in pursuance of an act passed in the ——— year of the reign of ——— for that the said A. O. on the ——— day of ——— now last past, did [here state the offence] contrary to the form of the statute in that case made and provided; and I do declare and adjudge that he the said A. O. hath forfeited for his said offence the sum of ——— of lawful money of Great Britain, which sum of ——— I do hereby mitigate to the sum of ——— to be distributed as the law directs. This is the first [or other] offence. Given, &c.

Appeal against the conviction.

Which conviction shall be filed by the clerk of the peace, and shall not be removeable by *certiorari* into any other court. But subject nevertheless to appeal to the quarter sessions in such manner as by any former act is directed. s. 3.

In whose name the information shall be.

But now by the stat. 44 G. 3. c. 98. s. 10. no action or information shall be commenced or filed in any court or before any justice or justices of the peace for any penalty or forfeiture under any of the stamp acts, but in the name of the attorney general, or in the name of the solicitor or some other officer of the stamp duties.

And all penalties and forfeitures under the stamp acts are to be applied to the use of the king, &c. but the commissioners of the stamps may give such part of the penalty to the informer as they may think expedient. s. 27.

44 G. 3. c. 98.

By the 44 G. 3. c. 98. all the duties and drawbacks under the care of the commissioners of the stamps shall cease from October 10, 1804, except as to the recovering of any penalties incurred previously thereto; and after that time certain duties are made payable as specified in the schedules to that act annexed. By the 48 G. 3. c. 149. the several duties in the

48 G. 3. c. 149.

schedule A, to the former act annexed are repealed, excepting in certain cases, viz. of licences for selling ale, &c. (*for which see ante, vol. 1. tit. ALKHOUSES, Sect. II.*); for selling hats; and for selling medicines, (*for which see ante, that title, vol. 3.*); for exercising the trade of a pawnbroker, (*for which see ante, this vol. tit. PAWNING*); letting to hire horses for the purpose travelling post or otherwise, and for letting to hire stage coaches and carriages, (*for which see ante, this vol. tit. POST*); and the duties on newspapers, pamphlets, almanacs and calendars,

calendars, and books or calendars serving the purpose of almanacs or calendars, (*for which see ante, vol. 1. tit. ALMANACS, and vol. 3. tit. NEWSPAPERS*; and also the legacy duties imposed by 45 G. 3. c. 28. (*see ante, this vol. tit. RECEIPTS*.) are repealed, and the stamp duties on appraisements, and on licences to appraisers granted by 46 G. 3. c. 43. are repealed.

The duties imposed by the 48 G. 3. c. 149. are so many and various that it is conceived to be foreign to the nature of this work to insert in it any others than those which are of most common and general application. Those relating to *legacies* and *receipts* will be found under the latter head in this vol.; those relating to *promissory notes* and *bills of exchange* are also under the former head in this vol. The schedule in this last act 48 G. 3. c. 149. containing the enumeration of these duties consists of three parts. The schedules in 44 G. 3. c. 98, marked *A. B. C.* and the duties contained in schedule *A.* of that act, remaining unrepealed, are as follow :

By 44 G. 3. c. 98. *Schedule B.*

HATS, licence to retail. — duty on every hat made wholly of felt, wool, stuff, or beaver, or leather, or any mixture of the said substances, or with any other substance or substances by whatever name such hat shall be called or distinguished, including all the mountings or other ornaments, (except gold and silver lace,) by any person or persons taking out a licence for uttering, vending, and selling hats by retail; for each hat which shall be uttered, vended, or sold, not exceeding the price or value of 4s. - 0 0 3

Kata.

Above 4s. and not exceeding 7s. - 0 0 6

— 7s. — 12s. - 0 1 0

— 12s. — 18s. - 0 2 0

— the price or value of 18s. - 0 3 0

Schedule A. Licence.

Annual, for uttering or vending by retail, within the cities of *London* or *Westminster*, or within the limits of the two-penny post, any hats, commonly called or known by the name of felt or wool, stuff or beaver hats, or any leather or japanned hats, or any hats made wholly of felt, wool, stuff, beaver or leather, or any mixture of the said substances, or any of them, or mixed with any other substance or substances, by whatsoever name such hats shall be called or distinguished - 2 0 0

in like manner in any other place than as last above-mentioned, yearly - 0 5 0

Y 4

Allowances.

Allowances.

Schedule C. Allowances.

- To every person, who at one time shall produce at the head office for stamps in *London*, to be stamped, or shall buy of the commissioners of the stamp duties, vellum, parchment, or paper, charged with any stamp duty, to the amount in the whole of 30*l.* or upwards, 1*l.* 10*s.* for every 100*l.* and so in proportion for any greater or less sum not under 30*l.*
- To card-makers, on payment of the duty on cards monthly, at the time of settling their accounts, the like allowance.
- Stationers who shall at one time purchase stamps for receipts, to the amount of 10*l.* in consideration of their making no charge to the public for the paper stamped for receipts, but actually and *bonâ fide* selling the same for the price of the stamp only, 7*l.* 10*s.* *per cent.* of the amount of the duty on such stamps for receipts, and so in proportion for any greater or less sum, not under 10*l.*; this allowance being over and above the usual allowance on the present payment of stamp duties to the amount of 30*l.* and upwards.
- To printers, publishers, and proprietors of newspapers, who shall not have raised the price of their newspapers above the price at which the same were respectively sold at and immediately before the time of passing the act of the 37 G. 3. c. 90. and who shall at one time produce at the head office of stamps, to be stamped, or shall buy of the commissioners of the stamp duties, paper stamped with the duty chargeable on newspapers, the duties whereof shall amount to 10*l.* or upwards, in consideration of prompt or present payment of such duty, 16*l.* 18*s.* *per cent.* on such payment, and so in proportion for any greater or less sum not under 10*l.* But if any such printer, publisher, or proprietor shall have raised, or shall raise the price of his newspaper above the price at which the same was sold at and immediately before the time of passing the said act, then no greater allowance shall be made in consideration of such prompt payment than at the rate of 4*l.* *per cent.* and so in proportion for any greater or less sum not under 10*l.* (a).
- To the two universities of *Oxford* and *Cambridge* respectively, the annual sum of 500*l.* each.
- To persons purchasing at the head office for stamps in *London*, stamps for hat linings to the amount, at one and the same time, of 10*l.* or upwards, 10*l.* *per cent.* of the amount of the duty thereon, and so in proportion for any greater or less sum not under 10*l.*

(a) See tit. *Newspaper.*

Allowances.

For receiving the duty for and in respect of fire insurances, paying the same and making out the accounts according to the directions of the several acts of parliament in that behalf made, *5l. per cent.* on the money so received, paid, and accounted for, and so in proportion for any greater or less sum.

To any person or persons, body or bodies politick or corporate, carrying on the business of sea-insurances within the city of *London*, who shall have given or caused to be given, (to the satisfaction of the commissioners of the stamp duties), security by bond for the payment of the duties on sea policies, at the times and in the manner to be prescribed by the said commissioners, and who shall duly pay the said duties in the time and manner prescribed, *1l. 10s. per cent.* of the amount of the duties so paid, and so in proportion for any greater or less sum.

For receiving the duty for and in respect to gold or silver plate made or wrought in *Great Britain*, paying the same, and making out the accounts according to the directions of the several acts of parliament in that behalf made, *2l. 10s.* for every *100l.* so received, paid, and accounted for, and so in proportion for any greater or less sum.

To persons who shall at one and the same time purchase stamped labels for medicines, the duty whereon shall amount to *5l.* or upwards, *5l. per cent.* and so in proportion for any greater or less sum not under *5l.*

To persons who shall at one and the same time purchase stamped labels for medicines, the duty whereon shall amount to *50l.* or upwards, *10l. per cent.* and so in proportion for any greater or less sum not under *50l.*

To persons who shall at one and the same time purchase stamped labels for medicines, the duty whereon shall amount to *100l.* or upwards, *12l. 10s per cent.*, and so in proportion for any greater or less sum not under *100l.*

To clerks in any court of law or equity, intrusted by the *25 G. 3. c. 80.* to enter and file of record certain memorandums or minutes; for their trouble in that behalf *2l. 10s.* for every *100l.* of the amount of the duties of such memorandums or minutes so entered or filed of record as aforesaid, and so in proportion for any greater or less sum.

To clerks of the peace or their deputies respectively, in consideration of their making out and delivering to the proper officer of the stamp duties, according to the directions of the *5 G. 3. c. 46.* a list of persons licensed to sell beer, ale, and other exciseable liquors, at and after the rate of $\frac{1}{4}d.$ for the name of every such person inserted in such list.

Stamps.

Allowances.

To clerks of the peace or their deputies, or the sheriff or steward clerk respectively, for and in consideration of their making out, according to the directions of the 25 G. 3. c. 50. a list of persons taking out game certificates, at and after the rate of $\frac{1}{4}d.$ for the name of every such person inserted in every such list.

To the clerk of the course, book-keeper, or other person authorized to enter any horse, mare, or gelding, to start or run for any plate, prize, sum of money, or other thing, in consideration of his trouble in receiving, accounting for, and duly paying the duty imposed thereon, 5*l.* for every 100*l.* of the amount of the duties so received, accounted for, and paid, and so in proportion for any greater or less sum.

Drawback.

Draw back.

For gold, silver plate wrought or manufactured in Great Britain, which shall be duly exported by way of merchandize to Ireland or any foreign parts, the whole duties which shall have been paid for the same.

By Schedule A. of 48 G. 3. c. 149. the following stamp duties are (amongst others) made payable.

Part I.

Admission of any person to act as an attorney, solicitor or proctor, in any court in England; or as a sworn clerk, scribe clerk, clerk in court, or other clerk or officer, in any court in England, whose business and emoluments (like those of an attorney or solicitor) shall depend upon his being retained and employed by clients or suitors, and shall therefore be wholly uncertain in amount - - - 20 0 0

Chester, Lancaster and Durham, shall be also admitted to act as a solicitor in any other of the said courts, or in any inferior court of equity, or as an attorney in any court of law in *England*, the latter admission shall be free of duty :

Provided such attorney or solicitor shall have paid the proper stamp duty on his former admission, according to the laws then in force.

But in all cases not expressly exempted, the said duty is to be paid on every admission of the same person.

Admission of any person into any corporation or company, in any city, borough, burgh, or town corporate, in *Great Britain*; for the register, entry, or memorandum thereof, in the court book, roll, or record of such corporation or company ;

Where the admission shall be in respect of birth, apprenticeship, or marriage - - - 1 0 0

And where the same shall be upon any other ground - - - 2 0 0

Affidavit, not made for the immediate purpose of being filed, read, or used in any court of law or equity ; for every sheet or piece of paper, parchment or vellum, on which the same shall be written or printed - - - 0 2 6

Exemptions from the preceding and all other stamp duties.

Affidavits required or authorized by law, to be made before any justice or justices of the peace ; or before any commissioner or commissioners of any public board of revenue, or any of the officers acting under them ; or before any other commissioner or commissioners appointed or to be appointed by act of parliament.

Affidavits made pursuant to the statutes for burying in woollen.

Affidavits which may be required at the bank of *England*, to prove the death of any proprietor of any share in any of the stocks or funds transferable there, or to identify the person of any such proprietor, or to remove any other impediment to the transfer of any such stocks or funds.

Also all affidavits relating to the loss, mutilation, or defacement of any bank note or bank post bill.

See also the general exemptions at the end of this part of the schedule.

Agreement or contract, accompanied with a deposit of title deeds for making a mortgage, wadset, or other security on any estate or property therein comprised. See *Mortgage*.

Agreement, or any minute or memorandum of an agreement, made in England under hand only (and not otherwise charged in this schedule nor expressly exempted from all stamp duty), where the matter thereof shall be of the value of 2cl. or upwards, whether the same shall be only evidence of a contract or obligatory upon the parties from its being a written instrument, together with every schedule, receipt, or other matter put or indorsed thereon or annexed thereto;

Where the same shall not contain more than 1080 words (being the amount of fifteen common law folios or sheets of seventy-two words each)

£. s. d.
0 16 0

And where the same shall contain more than 1080 words

1 10 0

And for every entire quantity of 1080 words contained therein, over and above the first 1080 words, a further *progressive* duty of

1 0 0

Provided always, that where divers letters shall be offered in evidence, to prove any agreement between the parties, who shall have written such letters, it shall be sufficient, if any one of such letters shall be stamped with a duty of 1l. 10s. although the same shall in the whole contain twice the number of 1080 words or upwards.

Exemptions from the preceding and all other stamp duties.

Label, slip or memorandum, containing the heads of insurances to be made by the corporations of the royal exchange assurance and *London* assurance; or by the corporations of the royal exchange assurance of houses and goods from fire and *London* assurance of houses and goods from fire:

Memorandum or agreement for granting a lease or tack, at rack rent, of any messuage, land or tenement, under the yearly rent of five pounds:

Memorandum or agreement for the hire of any labourer, artificer, manufacturer or menial servant:

Memorandum, letter or agreement, made for or relating to the sale of any goods, wares or merchandize:

Memorandum or agreement made between the master and mariners of any ship or vessel, for wages, on any voyage coastwise from port to port in *Great Britain*:

Letters containing any agreement (not before exempted) in respect of any merchandize or evidence of such an agreement, which shall pass by the post between merchants or other persons carrying on trade or commerce in *Great Britain*, and residing and actually being, at the time of sending

sending such letters, at the distance of fifty miles from each other.

See also the general exemptions at the end of this part of the schedule.

Appraisement or valuation of any estate or effects, £. s. d.
 real or personal, heritable or moveable; or of
 any interest therein; or of the annual value
 thereof; or of any dilapidations; or of any
 repairs wanted; or of the materials and labour
 used or to be used in any buildings; or of any
 artificers work whatsoever;

Where the amount of such appraisement or valuation shall not exceed 50l.	-	-	-	0	2	6
And where it shall exceed 50l. and not exceed 100l.	-	-	-	0	5	0
And where it shall exceed 100l. and not exceed 200l.	-	-	-	0	10	0
And where it shall exceed 200l. and not exceed 500l.	-	-	-	0	15	0
And where it shall exceed 500l.	-	-	-	1	0	0

Exemptions.

Any appraisement or valuation, made in pursuance of the order of any court of admiralty or vice admiralty or of any court of appeal from any sentence, adjudication or judgment of any court of admiralty or vice admiralty.

Apprenticeship and clerkship.—Indenture or other instrument, containing the covenants, articles or agreements, for or relating to the service of any apprentice, clerk or servant, who shall be put or placed to or with any master or mistress, to learn any profession, trade or employment whatsoever; *except articles of clerkship to attornies and others, herein-after specifically charged;*

If the sum of money or the value of any other matter or thing which shall be paid, given, assigned or conveyed or be secured to be paid, given, assigned or conveyed, to or for the use or benefit of the master or mistress, with or in respect of such apprentice, clerk or servant, or both the money and value of such other matter or thing, shall not amount to 30l.	-	-	-	0	15	0
If the same shall amount to 30l., and not amount to 50l.	-	-	-	1	10	0
If the same shall amount to 50l., and not amount to 100l.	-	-	-	2	10	0

If

If the same shall amount to 100 l., and not amount to 200 l.	-	-	-	£. s. d.
				5 0 0
If the same shall amount to 200 l., and not amount to 300 l.	-	-	-	10 0 0
If the same shall amount to 300 l., and not amount to 400 l.	-	-	-	15 0 0
If the same shall amount to 400 l., and not amount to 500 l.	-	-	-	20 0 0
If the same shall amount to 500 l., and not amount to 600 l.	-	-	-	25 0 0
If the same shall amount to 600 l., and not amount to 800 l.	-	-	-	30 0 0
If the same shall amount to 800 l., and not amount to 1000 l.	-	-	-	40 0 0
And if the same shall amount to 1000 l. or upwards	-	-	-	50 0 0
And where there shall be no such consideration as aforesaid, moving to the master or mistress; if the indenture or other instrument shall not contain more than 1080 words	-	-	-	0 15 0
And if the same shall contain more than that quantity	-	-	-	1 10 0
<i>Apprenticeship and Clerkship.</i> —Indenture or other instrument, containing the covenants, articles, or agreements, for or relating to the service of any such apprenticeship, clerk, or servant as aforesaid, who shall be put or placed to or with a new master or mistress, either by assignment or turnover, or upon the death, absence, or incapacity of the former master or mistress, or otherwise;				
Where there shall be any such valuable consideration as aforesaid, moving to the new master or mistress, exclusive of any part of the consideration to the former master or mistress, which may be returned, or given, or transferred to the new master or mistress	-	-	-	Such and the like duty in proportion to the amount or value of such new consideration only, as is before charged on any original indenture of apprenticeship.
And where there shall be no such new consideration; if the indenture or other instrument shall not contain more than 1080 words	-	-	-	0 15 0
And if the same shall contain more than that quantity	-	-	-	1 10 0
And where there shall be <i>duplicates</i> , or <i>two parts</i> , of any such indenture or other instrument, relating to any such apprentice, clerk, or servant as aforesaid; each part shall be charged with the duty before-mentioned, in all cases				

where the same shall not exceed thirty shillings; and where the same shall exceed that sum, only one part shall be charged with the said *ad valorem* duty, or duty in proportion to the consideration, and the other part shall be charged with a duty of - - - 1 10 0

Note—And the part, bearing the *ad valorem* or higher duty, shall belong to and be kept by the apprentice, clerk, or servant, or some person on his or her behalf, upon his or her being first placed out; and in case of any subsequent placing out, by assignment or otherwise, the part bearing the *ad valorem* duty on that occasion (if any) shall belong to and be kept by the former master or mistress, or his or her representatives, or by the apprentice, clerk, or servant, or some person on his or her behalf; and in each of the said cases, the other part, bearing the lower duty hereby charged thereon, shall belong to and be kept by the original master or mistress, or the new master or mistress as the case may be; and the same shall be respectively received in evidence accordingly.

Exemptions from the preceding and all other stamp duties.

Indentures or other instruments for placing out poor children apprentices, by or at the sole charge of any parish or township, or by or at the sole charge of any public charity, or pursuant to the act of the 32d year of his majesty's reign for the further regulation of parish apprentices:

And all assignments of such poor apprentices; provided there shall be no such valuable consideration as aforesaid, given to the new master or mistress, other than what may have been, or shall be given by any parish or township, or by any public charity.

Articles of clerkship, or contract, whereby any person shall first become bound to serve as a clerk; in order to his admission as an attorney or solicitor, £. s. d.

in any of his majesty's courts at *Westminster* - 110 0 0

in any of the courts of the great sessions in *Wales*, or of the counties palatine of *Chester*, *Lancaster*, and *Durham*; or in any other court of record in *England*, holding pleas, where the debt or damage amounts to forty shillings 55 0 0

And for any counterpart or duplicate of any such articles or contract of clerkship - 1 10 0

Articles of clerkship, or contract, whereby any person (not being an attorney of one of the courts at *Westminster*) shall first become bound to serve as a clerk, in order to his admission as a sworn clerk, in the office of the six clerks

of the court of chancery, or as a sworn clerk, clerk in court, or side clerk, in the office of pleas, or the office of his majesty's remembrancer, in the court of exchequer, in <i>England</i> -	£.	s.	d.
And for any counterpart or duplicate thereof -	110	0	0
<i>Articles of clerkship</i> , or contract, whereby any person shall become bound to serve as a clerk, in order to any such admission as aforesaid, for the residue of the term, for which he was originally bound, in consequence of the death of his former master, or of the contract between them being vacated by consent, or by rule of court, or in any other event -	1	10	0
And for any counterpart or duplicate thereof -	1	10	0
And where any person, having entered into any articles of clerkship or contract, bearing a stamp duty of 110l. in order to his admission as a sworn clerk, clerk in court, or side clerk, in the court of chancery, or court of exchequer, or in order to his admission as an attorney or solicitor in any of the courts at <i>Westminster</i> , shall afterwards enter into any such articles or contract as aforesaid, for any other of those purposes; the said last-mentioned articles or contract shall be charged only with a duty of -	1	10	0
And the counterpart or duplicate thereof -	1	10	0
And where the same articles of clerkship shall be a qualification to any person, to be admitted, not only as an attorney or solicitor in any of the courts at <i>Westminster</i> , but also as a sworn clerk, clerk in court, or side clerk, in the court of chancery or court of exchequer, or as an attorney or solicitor in any of the inferior courts aforesaid; such articles shall not be charged with more than one duty of 110l.			
<i>Articles of clerkship</i> , or contract, whereby any person shall first become bound to serve as a clerk, in order to his admission as a proctor in the high court of admiralty in <i>England</i> , or in any of the ecclesiastical courts in <i>Doctors Commons</i> -	110	0	0
And for any counterpart or duplicate thereof -	1	10	0
<i>Articles of clerkship</i> , or contract, whereby any person shall become bound to serve as a clerk, in order to his admission as a proctor, in any of the courts aforesaid, for the residue of the term, for which he was originally bound, in consequence of the death of his former master,			

or of the contract between them being vacated,	£.	s.	d.
or in any other event - - -	1	10	0
And for any counterpart or duplicate thereof -	1	10	0
<i>Award in England, and award or decreet-arbitral</i>			
<i>in Scotland</i> - - -	1	10	0
And where the same, together with any schedule,			
or other matter, put or indorsed thereon, or			
annexed thereto, shall contain 2,160 words or			
upwards, then for every entire quantity of			
1,080 words contained therein, over and			
above the first 1,080 words, a further pro-			
gressive duty of - - -	1	0	0
<i>Certificate to be taken out yearly, by every person</i>			
<i>admitted as an attorney or solicitor, in any of</i>			
<i>his majesty's courts at Westminster, or in any</i>			
<i>of the courts of the great sessions in Wales, or</i>			
<i>of the counties palatine of Chester, Lancaster,</i>			
<i>and Durham, or in any other court in England,</i>			
<i>holding pleas where the debt or damage amounts</i>			
<i>to forty shillings;—and by every person ad-</i>			
<i>mitted as a proctor in any of the ecclesiastical</i>			
<i>or admiralty courts in England;—and by</i>			
<i>every person admitted as a writer to the</i>			
<i>signet, or as a solicitor, agent, attorney or pro-</i>			
<i>curator, in any of the courts in Scotland;—</i>			
<i>and by every person admitted or inrolled as a</i>			
<i>notary public in England or Scotland;—and</i>			
<i>also by every sworn clerk, clerk in court and</i>			
<i>other clerk or officer in any of the courts</i>			
<i>aforsaid, who, in his own name or in the</i>			
<i>name of any other person, shall commence,</i>			
<i>prosecute, carry on or defend any action, suit,</i>			
<i>prosecution or other proceeding, in any of the</i>			
<i>courts aforsaid, or do any notorial Act what-</i>			
<i>ever, for or in expectation of any fee, gain or</i>			
<i>reward, as an attorney, solicitor, agent, pro-</i>			
<i>ctor, procurator or notary public, although</i>			
<i>not admitted or inrolled as such;</i>			
<i>If he shall reside in the city of London or city of</i>			
<i>Westminster or within the limits of the two-</i>			
<i>penny post in England, or within the city or</i>			
<i>shire of Edinburgh;</i>			
<i>And if he shall have been admitted or been in pos-</i>			
<i>session of his office, for the space of three</i>			
<i>years or upwards</i> - - -	10	0	0
<i>Or if he shall not have been admitted or been in</i>			
<i>possession so long</i> - - -	5	0	0
<i>If he shall reside elsewhere;</i>			
<i>And if he shall have been admitted or been in</i>			
<i>possession</i>			

Stamps.

possession of his office, for the space of three years or upwards	-	-	-	£.	s.	d.
Or if he shall not have been admitted or been in possession so long	-	-	-	6	0	0
But no one person is to be obliged to take out more than one certificate, although he may act in more than one of the capacities aforesaid or in several of the courts aforesaid.	-	-	-	3	0	0

Exemptions.

All clerks and officers of any of the courts aforesaid, who shall act or be concerned in the conduct or management of any action, suit, prosecution or other proceeding, by virtue and in the execution of their respective offices or appointments only, and shall not be also retained or employed by any party to such action, suit, prosecution or other proceeding, or by any attorney, solicitor, agent, proctor or procurator on behalf of any party thereto, for or in expectation of any fee or reward, other than the established fees due and payable in respect of their offices and appointments.

Certificate of marriage, except of any common seaman, marine or soldier - - - 0 5 0

Certificate of any person's having received the holy sacrament - - - 0 5 0

Copy, attested to be a true copy, in the form which hath been commonly used for that purpose, or in any other manner authenticated or declared to be a true copy, or made for the purpose of being given in evidence as a true copy, of any agreement, contract, bond, deed or other instrument of conveyance, or any other deed whatever, together with any schedule, receipt or other matter, put or indorsed thereon or annexed thereto or of any part thereof respectively;

Where such a copy shall be made for the security or use of any person, being a party to or taking any benefit or interest immediately under, such agreement, contract, bond, deed or other instrument - - - 0 10 0

And if the same shall contain 1,440 words (being the amount of twenty common law folios or sheets of seventy-two words each) or upwards, then for every entire quantity of 720 words (or ten common law folios or sheets) contained therein, over and above the first 720 words, a further *progressive* duty of - - - 0 10 0

And where any such copy shall be made, for the security or use of any person, not being a party to or taking any benefit or interest immedi-

rely under such agreement, contract, bond, £. s. d.
 deed or other instrument - - - - - 0 1 0

And for every entire quantity of 720 words con-
 tained therein, over and above the first 720
 words, a further *progressive* duty of - 0 1 0

And all copies, which shall at any time be offered in evi-
 dence, shall be deemed to have been made for that purpose.

Exemptions from the preceding and all other stamp duties.

All copies attested or authenticated as aforesaid, which shall
 be made for the private use only of any person having the
 custody of the original instruments or of his or her counsel,
 attorney or solicitor.

Copy, attested or authenticated as aforesaid or
 made for the purpose of being given in evidence
 as a true copy, of any original will, testament
 or codicil; or of the probate or probate copy of
 any will or codicil; or of any letters of admi-
 nistration; or of any confirmation of a testa-
 ment testamentary or dative; or of any part
 thereof respectively - - - - - 0 1 0

And for every entire quantity of 720 words, con-
 tained in any such copy, over and above the
 first 720 words, a further *progressive* duty of 0 1 0

And all copies, which shall at any time be offered in evidence,
 shall be deemed to have been made for that purpose.

Copysid estates; and *customary* estates passing by surrender
 and admittance or by admittance only, and not by
 deed;—*instruments* relating thereto, not otherwise charged
 under the head of mortgage or of conveyance upon the
 sale of lands,—*viz.*

Any *surrender* made out of court or the me-
 morandum thereof;—where the clear yearly
 value of the estate shall exceed twenty shillings 0 15 0

And where the same shall not exceed 20s. - 0 5 0

See also *conveyance* upon the sale of lands, &c. and *mortgage*.

Any *admittance* out of court or the memorandum
 thereof;—where the clear yearly value of the
 estate shall exceed twenty shillings - 0 15 0

And where the same shall not exceed 20s. - 0 5 0

And where both a surrender and admittance, or more than one
 surrender or admittance, or the memorandum thereof, shall
 be contained in the same piece of vellum, parchment, or pa-
 per, the said duties shall be paid, in respect of each sur-
 render and each admittance.

And where any such surrender or admittance or
 the memorandum thereof, together with any
 schedule, receipt or other matter, put or in-
 dorsed thereon or annexed thereto, shall contain
 2,160 words or upwards, then for every en-

Stamps.

entire quantity of 1,080 words contained therein,	£.	s.	d.
over and above the first 1,080 words, a further <i>progressive</i> duty of	-	0	15 0
The <i>copy of court roll</i> of any surrender made in court;—where the clear yearly value of the estate shall exceed twenty shillings	-	0	15 0
And where the same shall not exceed 20s.	-	0	5 0
The <i>copy of court roll</i> of any admittance in court;—where the clear yearly value of the estate shall exceed twenty shillings	-	0	15 0
And where the same shall not exceed 20s.	-	0	5 0
And where copies of both a surrender and admittance, or of more than one surrender or admittance, shall be contained in the same piece of vellum, parchment or paper, the said duties shall be paid, in respect of each surrender and each admittance, except in the case of a recovery hereinafter provided for.			
And where the copy of any such surrender or admittance, together with any schedule, receipt, or other matter, put or indorsed thereon or annexed thereto, shall contain 2,160 words or upwards, then for every entire quantity of 1,080 words contained therein, over and above the first 1,080 words, a further <i>progressive</i> duty of	-	0	15 0
The <i>copy of court roll</i> of the several surrenders, admittances and other acts, which shall take place in court, for the purpose of perfecting a <i>common recovery</i> of any entailed copyhold or customary estate; from the surrender to make a tenant to the præcipe, down to the admittance of the tenant in tail, in fee or to the admittance for life of the former tenant for life, with remainder to the tenant in tail, in fee, upon the surrender of the demandant, both inclusive; or from the surrender to make a tenant to the præcipe, inclusive, to the admittance of the tenant in tail or tenant for life, otherwise than as aforesaid or to the admittance of any other person, upon the surrender of the demandant, exclusive;—where the clear yearly value of the estate shall exceed twenty shillings		{	Five Times 0 15 0
And where the same shall not exceed twenty shillings	-	{	Five Times 0 5 0
And if the <i>copy of court roll</i> of any other admittance or surrender, admittances or surrenders, shall be contained in the same piece of vellum, parchment, or paper, with the copy of court roll of the several surrenders, admittances, and other acts for the purpose aforesaid; the same shall			be

be charged with such and the same duty or duties, as if the same had been written upon a separate piece of vellum, parchment or paper, over and above the said duties hereby imposed on the copy of court roll of the recovery.

Any *voluntary grant* by the lord or lady or steward of any manor, made out of court or the memorandum thereof, with or without admittance thereon;—where the clear yearly value of the estate shall exceed twenty shillings - - - { Twice
0 15 0
And where the same shall not exceed twenty shillings - - - { Twice
0 5 0

The *copy of court roll* of any voluntary grant made in court, by the lord or lady or steward of any manor, with or without admittance thereon;—where the clear yearly value of the estate shall exceed twenty shillings - - - { Twice
0 15 0
And where the same shall not exceed twenty shillings - - - { Twice
0 5 0

See also *conveyance* upon the sale of lands, &c. and *mortgage*.

And where any voluntary grant, or the memorandum, or copy of court roll thereof, together with any schedule, receipt or other matter put or indorsed thereon or annexed thereto, shall contain 2,160 words or upwards, then for every entire quantity of 1,080 words contained therein, over and above the first 1,080 words, a further *progressive* duty of - 0 15 0

Any *licence* to demise or the memorandum thereof, if granted out of court; and the *copy of court roll* of any licence to demise, if granted in court;—where the clear yearly value of the estate shall exceed 20s. - 0 15 0

And where the same shall not exceed 20s. - 0 5 0

Exemptions from the preceding and all other stamp duties.

Original surrenders out of court to the uses of a will or to a trustee for the uses or purposes of a will.

The court rolls or books of any manor, wherein the proceedings relating thereto shall be entered or minuted.

See also the general exemptions at the end of this part of the schedule.

Deputation or appointment of a gamekeeper - 1 10 0

Lease or tack of any lands, hereditaments or heritable subjects, for a term not exceeding twenty-one years, at a yearly rent of 10l. or less, and without any fine or *graffum* paid for the same - 1 0 0

Lease or tack of any lands, hereditaments or heritable subjects for a life or lives or for a term of years determinable with a life or lives or

Stamps.

for a term absolute, not exceeding forty years, in consideration of a fine or gratum paid for the same not exceeding twenty pounds;	£.	s.	d.
If the rent reserved or stipulated shall not exceed forty shillings	1	0	0
And if the rent reserved or stipulated, shall exceed forty shillings	1	10	0
<i>Lease or tack of any kind, not otherwise charged in this schedule</i>	1	10	0
And for the counterpart or duplicate of any lease or tack, hereby charged with a duty of 1l. the like duty of	1	0	0
And for the counterpart or duplicate of any other lease or tack whatsoever	1	10	0
And where any such lease or tack, counterpart or duplicate as aforesaid, together with any schedule, receipt or other matter, put or indorsed thereon or annexed thereto, shall contain 2,160 words or upwards, then for every entire quantity of 1,080 words contained therein, over and above the first 1,080 words, a further <i>progressive</i> duty of	1	0	0
<i>Exemptions from the preceding and all other stamp duties.</i>			
Leases or tacks of waste or uncultivated lands, to any poor or labouring persons, for any term not exceeding three lives. or ninety-nine years, where the fine shall not exceed five shillings, nor the reserved rent one guinea per annum; and the counterparts or duplicates of all such leases.			
<i>Letter</i> or power of attorney, made by any petty officer, seaman, marine or soldier serving as a marine, for receiving prize money	0	1	0
<i>Letter</i> or power of attorney, of any other kind or commission or factory in the nature thereof	1	0	0
And where the same, together with any schedule or other matter, put or indorsed thereon or annexed thereto, shall contain 2,160 words or upwards, then for every entire quantity of 1,080 words contained therein, over and above the first 1,080 words, a further <i>progressive</i> duty of	1	0	0
<i>Licence</i> to use and exercise the calling or occupation of an appraiser	0	6	0
To be taken out, yearly, by every person who shall exercise the said calling or occupation or make any appraisement or valuation. herein-before charged with a duty, for or in expectation of any gain, fee or reward, except licensed auctioneers.			
<i>Policy</i> of assurance or insurance or other instrument, by whatever name the same shall be			

called,

called, whereby any insurance shall be made upon any *life* or *lives* or upon any event or contingency, relating to or depending upon any life or lives, £. s. d.

Where the sum insured shall not amount to 500l. - - - - - 0 15 0

And where it shall amount to 500l. or upwards 1 10 0

Policy of assurance or insurance or other instrument, by whatever name the same shall be called, whereby any insurance shall be made of or upon any building, goods, wares, merchandize or other property, from loss or damage by *fire* only - - - 0 1 0

Schedule, inventory or catalogue of any lands, hereditaments or heritable subjects or of any furniture, fixtures or other goods or effects; or containing the terms and conditions of any proposed sale, lease, or tack, or the conditions and regulations for the cultivation or management of any farm, lands or other property leased or agreed to be leased; or containing any other matter or matters of contract or stipulation whatsoever; *which shall be referred to* in or by, and be intended to be used or given in evidence as part of, or as material to, any agreement, lease, tack, bond, deed or other instrument, charged with any duty in this schedule, *but which shall be separate and distinct from*, and not indorsed on or annexed to, such agreement, lease, tack, bond, deed, or other instrument - - - 1 0 0

And if the same shall contain more than 1,080 words, then for every further entire quantity of 1,080 words contained therein, over and above the first 1,080 words, a further *progressive* duty of - - - 1 0 0

Exemptions from the preceding and all other Stamp Duties.

Printed proposals, published by any corporation or company, respecting insurances and which shall be referred to, in or by any policy or instrument of insurance, issued by such corporation or company.

Seisin—Instrument of seisin, given upon any charter, precept of clare constat or precept from chancery, or upon any wadset, heritable bond, disposition, apprising, adjudication or otherwise, of any lands or heritable subjects in *Scotland*, not of burgage tenure - - - 0 7 0

And where the same shall contain 2,160 or upwards, then for every entire quantity of 1,080

Stamps.

words contained therein, over and above the first 1,080 words, a further <i>progressive</i> duty of	£.	s.	d.
<i>Testimonial</i> or certificate of the admission of any person, to the degree of a bachelor of arts, in either of the universities in <i>England</i>	0	7	0
<i>Testimonial</i> or certificate of the admission of any person, to any other degree, in either of the said universities	3	0	0
	10	0	0

General Exemptions from all stamp duties.

- All bonds, contracts, mortgages, conveyances, deeds and instruments, whatever, exempted from stamp duty, by the act of the 17th year of his majesty's reign c. 53. or any other act or acts of parliament now in force, for promoting the residence of the parochial clergy, by making provision for building, repairing or purchasing houses and other buildings, for the use of their benefices.
- All affidavits, contracts, mortgages, conveyances, deeds and instruments whatever, exempted from stamp duty, by the act of the 42d year of his majesty's reign, c. 116. or any other act or acts of parliament now in force, relating to the redemption and sale of the land tax.
- All transfers of shares in the government or parliamentary stocks or funds.
- All grants, leases, and other conveyances and instruments, exempted from stamp duty by an act of the present session to improve the land revenue of the crown.

Part II.

III. Proceedings in the courts of law and equity at *Westminster*, including the court of the Duchy of *Lancaster*, and in other courts in *England*, and the offices belonging thereto, and also before the lord high chancellor or the lord keeper, or commissioners for the custody of the great seal, in matters of bankruptcy and lunacy.

Affidavit, to be filed, read, or used, in any of the courts of law or equity at *Westminster*, or of the great sessions in *Wales*, or of the counties palatine of *Chester*, *Lancaster*, and *Durham*; or before any judge or master, or other officer of any of the said courts; or before the lord high chancellor, or the lord keeper or commissioners of the great seal, sitting in matters of bankruptcy or lunacy.

0 2 6

Affidavit, to be filed, read, or used in any other court of law or equity, in *England*, except in actions or suits, where the debt or damage, or thing claimed or demanded, shall be under the amount or value of forty shillings

0 1 6

V. GENERAL

V. GENERAL EXEMPTIONS *from all stamp duties, applicable to England as well as Scotland.*

Warrants, mandates, or authorities, to commence, carry on, or defend any actions, suits, or prosecutions, in any court whatever, where the debt, damage, or thing claimed or demanded shall not amount to or be of the value of forty shillings.

Warrants, mandates, or authorities to commence, carry on, or defend any prosecutions or proceedings upon indictments, or upon any information, suit, writ, or process in the name of his majesty, his heirs or successors, or at the instance of the attorney general, lord advocate of *Scotland*, or other officer legally authorized to prosecute or sue in the name or for the interest of his majesty, his heirs or successors.

But these exemptions are not to extend to informations in the nature of quo warranto, filed by his majesty's coroner and attorney in the court of king's bench; nor to informations in courts of equity, at the relation of private persons; nor to informations, where any other person than his majesty, his heirs or successors, shall be entitled to any penalty or forfeiture, or any share thereof.

All proceedings for or on the behalf of any person legally admitted to sue or defend in *forma pauperis*; and all proceedings of courts martial; and all orders, decrees, and proceedings, of or before any commissioners of sewers, and of or in the stannary courts in *England*.

All summonses, attachments, executions, and other proceedings, in or issuing out of any of the courts, established for the recovery of debts not exceeding five pounds, commonly called courts of request.

Part III.

Containing the duties on probates of wills and letters of administration; on confirmations of testaments, testamentary and dative; or inventories to be exhibited in the commissary courts in *Scotland*; and on legacies out of real or personal, heritable or moveable estate; and on successions to personal or moveable estates upon intestacy.

By *f. 2.* of 48 G. 3. c. 149. The duties granted by that act were to commence from Oct. 10, 1808; and by *f. 3.* were placed under the management of the commissioners of stamps; and by *f. 8.* the regulations of former stamp acts are extended to the present.

Commencement of the Act.

By *f. 4.* No stamp appropriated to denote the duty charged on any particular instrument, and bearing the name of

The stamp must be of the proper kind.

of such instrument on the face thereof, shall be used for denoting any other duty of the same amount, or if so used, the same shall be of no avail.

How old stamps
are to be used.

By §. 5. The commissioners may issue any vellum &c. which shall have been stamped under the repealed duties, for any instrument, &c. charged with duties of the same amount, and also cause any such vellum &c. to be stamped additionally to make up the amount of the increased duty hereby charged on any of the instruments &c. for which such vellum &c. was originally intended, and issue the same to be used accordingly. And also it shall be lawful for any persons having any vellum &c. stamped with any duty repealed by this act or the 44 G. 3. to use the same for any instruments &c. hereby charged with duties of the same amount : Provided that no vellum &c. having a single stamp, shall be used for any instrument &c. requiring two or more distinct stamps though of equal amount therewith ; nor shall any vellum &c. bearing a stamp appropriated by name to any particular instrument &c. be used for any other purpose.

Agreements, and
agreements for
leases.

By §. 9. The provisions of former acts relating to agreements shall only be applied to such as are hereby charged with a duty of 16s. ; and those charged 1l. 10s. shall be subject to the same provisions as deeds hereby charged with a like duty ; and all agreements for leases, stamped with the duty for the time being payable in respect thereof, shall be as valid as if stamped with the proper agreement stamp ; and all other agreements hereby charged with 16s. shall be valid if stamped with a duty of 1l. 10s.

New articles of
clerkship after
the death of the
first master.

By §. 10. Where any person shall have become bound to serve as a clerk in order to his admission as an attorney or solicitor in any of his majesty's courts at *Westminster* or in any of the courts of great sessions in *Wales*, or of the counties palatine of *Chester*, *Lancaster* and *Durham*, or in any other court of record in *England*, by articles of clerkship duly stamped according to the laws in force at the time of the date and execution thereof, and shall after the passing of this act, in consequence of the death of his master or from any other cause, enter into new articles of clerkship for a new term of years for the same purpose, such new articles of clerkship shall be only charged with a duty of 1l. 10s. and the counterpart with the same.

By this same act there are many other provisions enacted, which (*excepting those relating to promissory notes and legacies, which are placed under their respective heads in this vol.*) are here omitted, as not coming within the notice of a justice of peace in the exercise of his duties as a magistrate.

The duties imposed by the former act on indentures of apprenticeship, and some other things, are preserved in their proper places in these volumes, as in judicial proceedings the validity

validity of such instruments may not unfrequently be at issue.

Every instrument, matter or thing, although stamped or impressed with any stamp of greater value than the stamp required by law, shall be valid and effectual; provided such stamp shall be of the denomination required by law for such instrument, matter or thing. 43 G. 3. c. 127. s. 6.

Instrument to be valid though impression with a stamp of greater value.

And by the 5th section of the same act, reciting that by the 37 G. 3. c. 136. the commissioners or their officer are empowered upon payment of the duty and a penalty of 5*l.* to stamp any vellum, parchment or paper, whereupon any instrument &c. (except bills of exchange, promissory or other notes, drafts or orders), shall have been or shall be engrossed, printed or written, liable in respect thereof to be stamped with a stamp or stamps of a particular denomination or value, and whereon there is or shall be impressed any stamp or stamps of a different denomination, but of an equal or greater value in certain cases therein mentioned; and reciting that it is expedient to permit the same to be done without payment of the said penalty, it is therefore enacted, that the commissioners, or their officer, may, from the 11th August 1803, stamp or cause to be stamped any such vellum, parchment or paper (except as aforesaid), in any of the cases herein-before mentioned, without payment of the said penalty of 5*l.*

Instrument not properly stamped, may be stamped with the proper stamp without paying any penalty.

And by 44 G. 3. c. 98. s. 24. where it shall appear to any one or more of the commissioners of the stamp duties, upon oath or affirmation, or otherwise to their satisfaction, that any instrument, matter or thing whatsoever, (except bills of exchange, promissory notes or other notes, drafts, orders or receipts, required by law to be ingrossed, printed, or written on stamped vellum, parchment or paper,) hath been ingrossed, printed or written on vellum, &c. not duly stamped with a stamp of the value by this act required, either by accident or inadvertency, or from urgent necessity or unavoidable circumstances and without any wilful delay or intention in any party or parties thereto, to evade the duties by this act imposed or to defraud his majesty thereof, and such instrument, matter and thing shall be brought to the said commissioners to be stamped within twelve months after the making or execution thereof, they may remit the penalty payable on stamping the same, or any part thereof, as they shall deem expedient; and every person concerned in ingrossing, printing or writing or in making or executing the same, shall be indemnified from all further penalties or forfeitures than such penalties or forfeitures or such parts thereof as shall not be remitted by order of the said commissioners.

Where certain instruments have without fraudulent intention been written on improper stamps, the commissioners may remit the penalty.

Under what considerations.

But

But nothing herein contained shall extend or be construed to extend to prevent the commissioners from stamping any receipts allowed to be stamped after the same shall have been written and signed, under such circumstances and regulations as such receipts may now be stamped; and the said commissioners may make all such payments and allowances as are by any act or acts now in force, in relation to the duties on vellum, parchment or paper or any of those heretofore directed to be made, paid and allowed by the said commissioners and are not by this act varied, altered or expressly repealed. *Ibid.*

Writings comprised from stamps.

No warrant made by or recognizance taken before justices of the peace shall be chargeable. 6 & 7 W. c. 12. f. 2.

Nor proceedings with respect to persons admitted to sue or defend in *forma pauperis*, 5 W. c. 21. f. 14. 44 G. 3. c. 98. f. 19.

Nor any proceedings of any court martial, relative to the trial of any common soldier; nor any orders, decrees or proceedings, before any commissioners of sewers or in the court of flannaries; nor any instruments, matters or things relating to the purchase or redemption of any land tax, 44 G. 3. c. 98. f. 19. & 42 G. 3. c. 116. f. 81.

Nor any commissions granted to any officers of volunteer or yeomanry cavalry or volunteer infantry. 44 G. 3. c. 98. f. 18.

Instead of several stamps, there may be one general stamp for the whole.

To prevent the multiplication of stamps upon such pieces of vellum or parchment or sheets or pieces of paper, on which several duties are by several acts imposed, it shall be lawful for the commissioners, instead of the distinct stamps directed by the several acts, to cause one stamp to be provided, to denote the said several duties. 30 G. 2. c. 19. f. 18.

Officers for the stamp duties.

For the management of the stamp duties the king may appoint commissioners, who shall substitute inferior officers, 5 W. c. 21. f. 7. 9 & 10 W. c. 25. f. 48. 44 G. 3. c. 98. f. 6.

And with regard to the duties on the several acts before the 8 An. the said officers, before they shall act, shall take an oath for the due execution of their office before one or more of the commissioners; and by the said act of 8 An. and the subsequent acts they may take the said oath, with respect to the duties on those acts, before one or more of the commissioners, or a justice of the peace.

Commissioners may issue and persons may use any vellum or paper, stamped before October 10, 1804, with stamps denoting duties of the like amount with those specified in the schedules. 44 G. 3. c. 98. f. 7.

No instrument subject to one duty to be charged under separate heads. Penalty for writing

And no single instrument, which is by the 44 G. 3. c. 98. subject to one specific duty, shall be chargeable under any two or more separate heads. f. 11.

If any person shall write on any paper or parchment, before it

it be duly stamped as by the 5 *W.*, he shall forfeit 5*l.* (and by the 9 & 10 *W.* 5*l.* more,) and an officer offending shall over and above forfeit his office. And an attorney offending shall be disabled to practise. 5 *W.* c. 21. f. 11.

And if any instrument shall be written by any person (not being a known clerk or officer in respect of his office entitled to write the same) on paper or parchment not duly stamped, there shall be paid over and above the duty the sum of 5*l.* (and by the 10 & 11 *W.* 5*l.* more); and the instrument shall not be given in evidence in any court until both the duty and the said sum shall be paid, and a receipt produced for the same under the hand of some officer appointed to receive the duties, and until the same shall be stamped. 5 *W.* c. 21. f. 11.

Provided, that no memorandum or agreement not stamped shall be deemed void, if stamped at the head office, or the duty paid and, a receipt given thereon for the same by the proper officer receiving such duty within 21 days after such agreement shall have been entered into. 23 *G.* 3. c. 58. f. 5.

The duties, allowances, and drawback above specified, are to be allowed and paid in the same manner as they formerly were; and all the provisions of former acts relating to the stamp duties, not hereby altered, shall be applied to the act 44 *G.* 3. c. 98. f. 8.

And so much of the 37 *G.* 3. c. 90. as directs that, in respect of every copyhold tenement of the value of 20*s.* *per annum* or upwards mentioned in any surrender, admittance, or copy of court roll of any honour or manor, and every custom-right or tenant-right tenement, not being copyhold (of the like value), in any surrender, admittance, or instrument of admittance, whereupon a several fine shall be due and payable to the lord and lady of any honour or manor, or a several fee shall be demanded or received by any steward or deputy steward thereof, a distinct and several stamp duty shall be charged according to the amount of all the duties imposed thereon by the said act, or any former acts; and also so much of the said act as imposes a penalty upon any steward or other officer as above mentioned for demanding, taking, or receiving any such fine or fee, without at the same time demanding and receiving the stamp duty in respect of each several and distinct tenement; and also so much of the 38 *G.* 3. c. 85. as relates to the stamp duties charged in respect of any surrender, admittance, copy of court roll, or instrument of admittance of or to any copyhold tenement, or any customary or tenant right estate, and as imposes any penalties upon any such steward or officer, in relation to such duties, shall be repealed. 44 *G.* 3. c. 98. f. 25.

And to prevent frauds, if any clerk or other officer shall neglect to enter or file any action, plaint, bill, appearance, admission

Memorandum or agreements may be stamped within 21 days.

Former acts to be applied to this act.

Clerk not entering instruments charged with the stamp duties.

admission or other thing in respect whereof any duty is payable for four months ; or shall not file the same before any subsequent proceeding shall be entered ; or shall file any such subsequent proceeding before the other shall have been filed as aforesaid ; he shall forfeit 20*l.* Except where judgment is entered by confession. 1 *An. ft. 2. c. 22. f. 1.*

Officers to suffer
their books to
be inspected.

All publick officers, who shall have in their custody any books, papers, files, records, remembrances, dockets, or proceedings, the sight or knowledge whereof may tend to secure any of the stamp duties, or to the discovery of any fraud or omission in relation thereto, shall, at seasonable times, permit any officer authorized by the commissioners to inspect the same, and take notes thereout, without fee ; on pain of 50*l.* 5 *G. 3. c. 46 f. 38.*

Writing to be
near the stamp.

The writing shall be either upon, or as near as conveniently may be to the stamp ; on pain of 10*l.* with full costs. 1 *An. ft. 2. c. 22. f. 5.*

The same stamp
not to serve
twice.

If any person shall write any thing, in respect whereof the stamp-duties are payable, on any piece of paper or parchment, whereon there shall have been before any writing in respect whereof any duty was payable, before the same hath been again stamped ; or shall erase or scrape out any name, sum, date, or other thing, or fraudulently take off any stamp, with intent to use it in any other thing in respect whereof any duty is payable ; he shall forfeit in like manner as for writing on paper unstamped, and also 20*l.* with full costs. *f. 2, 3.*

And by the 12 *G. 3. c. 48.* he shall be guilty of felony, and transported for a term not exceeding 7 years ; and if he return before the expiration of his term, he shall be guilty of felony, without benefit of clergy, and may be tried in the county where he was apprehended. And if an offender, being out of prison, shall discover any other offender so as he be convicted, such discoverer shall have a pardon.

Stamps useless.

Stamps becoming useless may be exchanged within 12 months for others, which the party may require to the same amount.

Stamps spoiled.

Stamps spoiled before the writing thereon hath been executed may, upon oath made thereof before the commissioners, be exchanged at the stamp office. 5 *G. 3. c. 46. f. 29.*

And the commissioners of stamps may make such regulations for preventing fraudulent claims, and for regulating the times and places for cancelling or allowing other stamps, as they shall think proper. 44 *G. 3. c. 98. f. 17.*

Counterfeiting
the stamps.

By 48 *G. 3. c. 149. f. 7.* If any person shall counterfeit any stamp or die, or cause or procure them to be counterfeited, or knowingly sell any paper with such counterfeit stamp ; he shall be guilty of felony without benefit of clergy.

Fraudulently
the true

And by the 5 *G. 3. c. 46. f. 40.* If any person shall fraudulently

Stamps.

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lently use any of the stamps provided by this or any former act, he shall be guilty of felony without benefit of clergy.

So also by 48 G. 3. c. 149. s. 7.

Starr. See **Went**.

Starch. See **Excise**.

Stocks.

IT is said that every vill of common right is bound to provide a pair of stocks. 2 *Haw. c. 11. s. 5. Kitch. 13.*

They ought to be provided at the charge of the town; for originally they were not to punish but to keep men in hold 1 *Word's Just. b. 4. c. 1.*

And the constable, by the common law, may confine offenders in the stocks by way of security, but not by way of punishment.

But by divers statutes, the stocks are also appointed for the punishment of offenders in sundry cases, after conviction.

Stock of companies.

[8 G. c. 22. s. 1.]

IF any person shall forge or counterfeit any power or authority to transfer any share of any capital stock of any company established by act of parliament, or to receive the same, or shall forge or counterfeit the name of any proprietor or person intitled to a dividend, or shall fraudulently demand or endeavour to have any such share received by virtue of such counterfeit instrument, or shall personate any proprietor of any such share of such stock; he shall be guilty of felony without benefit of clergy. 8 G. c. 22. s. 1. See tit. **Forgery**, and also **Stamps**.

Stocking-frames.

BY 28 G. 3. c. 55. If any framework-knitter, who shall rent, or take by the hire, any stocking-frame, either with or without any machine or engine thereto annexed, or therewith to be employed, shall refuse to yield up and re-deliver the same to the person of whom he so rented it after 14 days previous notice, he shall, on conviction, by the oath of the owner or employer of such frame, or of any other witness, before one justice where the offence is committed, or where the person so charged shall inhabit, for every such offence forfeit 20s. to the poor; and if not immediately paid, and such frame &c. delivered up to the owner within six days after conviction,

conviction, such justice shall commit such offender to gaol or other public prison to hard labour for any time not exceeding *three* nor less than *one* calendar month. *f. 1.*

If any person so renting or taking to hire any stocking-frame, with or without such machine as aforesaid, shall sell or unlawfully dispose thereof without the consent of the owner; or shall wilfully and knowingly receive or purchase the same so sold or unlawfully disposed of as aforesaid, contrary to the true intent and meaning of this act, every such offender, being convicted upon indictment, shall suffer solitary imprisonment in the gaol or house of correction for not less than *three* nor exceeding *twelve* calendar months. *f. 2, 3.*

And if any person shall by day or night enter by force into any house, shop, or place, with an intent to cut or destroy, or shall wilfully and maliciously cut or destroy, any framework-knitted pieces, stockings, or other goods, being in the frame, or upon any machine or engine thereto annexed, or therewith to be used, or prepared for that purpose; or shall wilfully and maliciously break, destroy, or damage any frame, machine, engine, tool, instrument, or utensil used in the working and making any such goods as aforesaid in the hosiery or framework-knitted manufactory, without the consent of the owner; or shall break or destroy any machinery contained in any mill used or employed in preparing or spinning wool or cotton for the use of the stocking-frames; every such offender on conviction shall be adjudged guilty of felony, and be transported for not exceeding *fourteen* nor less than *seven* years. *f. 4.*

Stolen Goods. See **Search warrant, Restitution.**

Stores.

[31 El. c. 4.—9 & 10 W. c. 41.—1 G. 2. c. 25. f. 3, 6.—9 G. c. 8. f. 3. 4.—17 G. 2. c. 40. f. 10. 11.—9 G. 3. c. 30. f. 5.—12 G. 3. c. 24.—39 & 40 G. 3. c. 24.]

Imbezeling to
the value of 20s.

IF any person having the charge or custody of any of the king's armour, ordnance, ammunition, shot, powder, or habiliments of war, or of any victuals provided for victualling the army, shall for lucre or gain wittingly, advisedly, and of purpose to hinder his majesty's service, imbezzle, purloin, or convey away the same to the value of 20s., or shall feloniously steal or imbezzle any of his majesty's sails, cordage, or any other of his majesty's naval stores, to the like value of 20s. at one or several times; he shall (on prosecution within a year) be adjudged guilty of felony without benefit of clergy. 31 El. c. 4. 22 C. 2. c. 5.

And the treasurer, comptroller, surveyor, clerk of the acts, or any commissioner of the navy, may act as justices, in causing the

the offenders to be apprehended, committed, and prosecuted for the same. 9 G. 3. c. 30. f. 5.

Any of the principal officers or commissioners of the navy may issue warrants to search for the same, and punish the offenders by fine not exceeding 20s. or imprisonment not exceeding one week, the value of the goods not exceeding 20s.; and if the offence requires a higher punishment, may commit him till he finds sureties to appear in the exchequer, or other court where the king shall question him for the same within one year, on process duly served for that purpose on such offender. 1 G. 3. 2. c. 25. f. 3.

Under the value of 20s.

And every person who shall counterfeit the hand of any officer of the navy to any paper whereby his majesty's naval treasure may be disposed of, or knowingly produce the same, he may be bound over by the said officers and commissioners, or any of them, until he find surety to appear at the next assizes or quarter sessions, to be there proceeded against according to law. 1 G. 3. 2. c. 25. f. 6.

Counterfeiting a naval officer's hand.

No person, other than persons authorized by contracting with his majesty's officers, shall make any stores of war or naval stores with the king's mark, that is, cordage of three inches and upwards with a white thread laid the contrary way, or any smaller cordage with a twine in lieu of white thread laid the contrary way, or any canvas with a blue streak in the middle, or any other stores with the broad arrow; on pain of forfeiting the same, and 200l., together with the costs of prosecution, on conviction (at the assizes or sessions, 17 G. 2. c. 40. f. 10, 11.), half to the king, and half to the informer. 9 & 10 W. c. 41.

Making stores with the king's mark.

And such person in whose custody such goods or stores so marked (or any timber, thick stuff, or plank, marked with the broad arrow, 9 G. c. 8. f. 3.) shall be found, shall forfeit the same and 200l. with costs in like manner, and be imprisoned till paid, unless he shall upon trial produce a certificate from three principal officers of the navy, expressing the quantity, and on what occasion he came by them. 9 & 10 W. c. 41.

The statute 9 G. 1. c. 8. f. 4. enables the court to mitigate the penalty, inflicted by the *stat.* 9 & 10 W. 3., as they shall see cause, and to commit the offender so convicted to the common gaol of the county until payment of the penalty, or to punish such offender corporally by causing him to be publicly whipped, or committed to some public workhouse, there to be kept to hard labour for six months, or a less time, as to such judge in his discretion shall seem meet.

The *stat.* 17 G. 2. c. 40. f. 10. after reciting doubts whether the two statutes 9 & 10 W. 3. c. 41. & 9 G. 1. c. 8. gave jurisdiction to justices of assize, justices of

peace &c. to try such offences, enacts and declares, that "justices of assize and justices of the peace at the general quarter sessions for any county city &c. may hear and determine such offences &c., and may impose any fine not exceeding 200*l.* and mitigate the penalty &c. and commit the offender to the common gaol of the county until payment &c., or in lieu thereof to punish such offender corporally, by causing him to be publicly whipped and committed to some house of correction or public workhouse, there to be kept to hard labour for three months, or less time, as to such judge &c. in his discretion shall seem meet."

[Or to punish the offender corporally.] In the case of *R. v. Bland*, *M.* 34 *G.* 3. *B. R.* the defendant's counsel contended that, as their client could pay the penalty, the court had no authority to inflict corporal punishment. But the court said it was impossible to raise any serious doubt respecting the power of inflicting corporal punishment; for that the words of the statutes were in the disjunctive, enabling them either to impose a penalty, or to punish the offender corporally. And that this construction had already been put on the statutes in several instances, particularly in the case of *R. v. Newell*, *M.* 33 *G.* 3. And this appearing to the court to be a gross case, they sentenced the defendant to *Clerkenwell* prison for three months, there to be kept to hard labour, and during that time to be publicly whipped on *Clerkenwell Green* for the space of 100 yards. 5 *D. & E.* 370.

[Together with the costs of prosecution.] Though there was no instance prior to *Trin. Term*, 46 *G.* 3., in which the defendant had been ordered to pay the costs, the court of king's bench adjudged the defendant (*A. Chapple*) to pay the penalty of 200*l.* together with the costs. *Ib.* 371. *n. o.*

Persons (other than contractors) receiving or having stores of war in their possession.

By 39 & 40 *G.* 3. *c.* 89. every person (not being a contractor or employed as by 9 & 10 *W.* 3. *c.* 41. is mentioned) who shall sell or deliver, or receive, or have in his possession any stores of war, or naval, ordnance, or victualling stores, or any goods whatsoever marked as in the said recited act is expressed, or any canvas marked either with a blue streak in the middle, or with a blue streak in a serpentine form, or any buntin wrought with one or more streaks of raised tape, the same being in a raw or unconverted state, or being new, or no more than one third worn; and such person, who shall conceal any such goods marked as aforesaid, shall be deemed a receiver of stolen goods, knowing them to have been stolen, and shall, on conviction, be transported for 14 years, unless he shall upon his trial produce a certificate under the hands of three commissioners of the navy, expressing the number, quantity, or weight of such stores, and the reason of the same coming into his possession. *f.* 1.

And

And every person (except as aforesaid) in whose custody shall be found any canvas or buntin marked as aforesaid, not being new, nor more than one third worn, and all persons who shall be convicted of any offence contrary to the said act of 9 & 10 W. 3. besides forfeiting such stores and the sum of 200*l.* as therein specified, shall be punished by pillory, whipping, and imprisonment, or by any of the said ways, in such manner and for such time as to the judge or justices before whom such offender shall be convicted may seem meet; provided, that such judge or justices may mitigate such penalty of 200*l.* as they shall think fit. *f. 2.*

Further punishment of persons convicted of offences against 9 & 10 W. 3.

Whipping and imprisonment.] The defendant was brought up to receive judgment after conviction on the *stat.* 9 & 10 W. 3. *c. 41. f. 2.* for unlawfully having in his possession naval stores &c., and judgment was about to be pronounced that he should be imprisoned in the house of correction for the county of *Surry*, and there kept to hard labour for three calendar months, and once during that time publicly whipped. This would have been warranted by the *stat.* 17 G. 2. *c. 40. f. 10.*, reciting the 9 & 10 W. 3. *c. 41.*, and the 9 G. 1. *c. 8.* But a doubt occurring how far the power of continuing to hard labour was taken away by the subsequent *stat.* 39 & 40 G. 3. *c. 89. f. 2.* The court upon further consideration and comparing the different provisions of these statutes, were of opinion that the power of sentencing to hard labour was taken away by the latter statute, and therefore pronounced judgment that the defendant should be imprisoned in the house of correction for the county of *Surry*, for three calendar months, and be once during that time publicly whipped. *R. v. Bridges. 8 East's Rep. 53.*

Provided, that nothing in the said act of 9 & 10 W. 3. or this act contained shall extend to exempt from the operation of this act any contractor, except only so far as concerns stores marked as aforesaid which shall be *bonâ fide* provided, made up or manufactured by such person, and which shall not before have been delivered into his majesty's stores, unless returned to such person. 39 & 40 G. 3. *c. 89. f. 3.*

How far 9 & 10 W. 3. shall extend to contractors.

And if any person shall wilfully destroy or deface any of the marks directed in the said act of 9 & 10 W. 3. or this act, denoting such stores to be the property of his majesty, for the purpose of concealing his majesty's property therein, he shall be deemed guilty of felony, and shall be transported for 14 years. *f. 4.*

Defacing Marks.

If any person, convicted of any offence against this act, for which he shall not have been transported, or contrary to the said act of 9 & 10 W. 3., shall be guilty of a second offence, which would not otherwise, as the first offence, sub-

Persons convicted of a second offence to be transported.

Punishments
may be miti-
gated.

Houses, &c.
may be searched
where stores are
suspected to be
concealed.

Persons deputed
may detain craft,
&c. suspected of
having stolen ar-
ticles on board.

ject him to transportation, he shall, on conviction for such second offence, be transported for 14 years. *§. 5.*

And the court before whom any offender shall be convicted for transportation may mitigate the same by causing such person to be set on the pillory, publicly whipped, fined, or imprisoned, or by all or any of the said ways, as such court shall think fit; one moiety of all such fines shall go to his majesty, and the other moiety to the informer; and the court may also order such offender to be imprisoned until such fine be paid. *§. 7.*

Any commissioner of the navy, or justice, may upon the oath of one witness, that there is reason to suspect that stores or goods belonging to his majesty are concealed in any dwelling-house, warehouse, workshop, out-house, yard, garden, or other place, or on board any vessel or boat, by warrant under his hand and seal cause every such house and place to be searched in the day-time by any peace officer; and if any stores marked as aforesaid be found, to cause the same and the offender to be brought before him, and may commit bind over or otherwise deal with such offender according to law: And in case upon such search any stores not so marked shall be found, which may reasonably be suspected to belong to his majesty, the person in whose possession the same shall be found shall be required to give an account to the satisfaction of such commissioner or justice that the same were not embezzled or stolen from his majesty, or that they came into his possession honestly, without any suspicion of their having been embezzled or stolen; and on failure thereof by a reasonable time to be set by such commissioner or justice, such stores shall be forfeited, and such party shall be deemed guilty of a misdemeanor. *§. 11.*

Any persons deputed by the commissioners of the navy may detain any barge or craft in which may be suspected to be contained any articles stolen from his majesty's vessels or other places, and may apprehend and detain any person who may be reasonably suspected of having conveyed any such stores and articles on board, and convey him before any such commissioner or justice together with such articles and stores so found, who shall commit bind over or otherwise deal with such person according to law in respect to such things as shall be marked as aforesaid; and such as shall not be so marked, but which shall be reasonably suspected to be the property of his majesty, the person on whom the same shall be found shall be required to give an account to the satisfaction of such commissioner or justice that the same were not embezzled or stolen, or if so, that they had come into his possession honestly and without suspicion of their having been so embezzled or stolen; and on failure thereof by a reasonable time to be set as aforesaid,

said, such last mentioned stores and things shall thereupon become forfeited, and such person so apprehended shall be deemed guilty of a misdemeanor; and in case such person shall be convicted of stealing embezzling or unlawfully having the same in his possession, or shall be adjudged guilty of a misdemeanor for not giving a satisfactory account as aforesaid with respect to such stores or things as shall not be so marked, such barge or craft with its tackle and furniture shall be forfeited, and shall be disposed of as hereafter mentioned.

§. 12.

And any person so deputed, or any constable or other peace officer, or watchman when on duty, may apprehend any suspected person, and also may seize and detain in some place of safety any such stores and things suspected to have been stolen as aforesaid, and may convey the same and such person before such commissioner or justice; and the like proceedings shall be had against such person with respect to such stores and things, whether marked or not, as above directed, with respect to any stores found in any barge or craft. §. 13.

Persons so deputed may apprehend suspected persons.

All stores and things hereinbefore declared forfeited, on the parties not giving a satisfactory account that the same were not embezzled or stolen, shall be returned into his majesty's store, and applied for the use of his majesty; unless proof be made within three calendar months next following, to the satisfaction of such commissioner or justice, that such stores and things are the property of some other person, in which case they shall be forthwith delivered up to such person, on his giving a proper receipt for the same, and paying the charges attending the conveyance thereof from the time of seizure, to be settled by such commissioner or justice. §. 14.

Articles herein declared forfeited, to be returned into his majesty's store.

Such commissioner or justice by whom any such barge or craft shall be adjudged to be forfeited shall issue his warrant to the collector or chief officer of the customs where such seizure was made, for the sale of such barge or craft; who shall within one month cause the same to be sold, notice of such sale being given in some public paper circulating in the place where such sale shall be; and the money arising by such sale, after payment of the expences, shall be paid to such commissioner or justice, who within one calendar month after shall pay one moiety thereof to the person who made the seizure, and the other moiety to the use of his majesty. §. 15.

Craft, &c. forfeited may be sold.

Every person adjudged guilty of any misdemeanor before such commissioner or justice shall forfeit for the first offence 40s., for the second 5l., and for the third and every subsequent offence 10l., over and above all other forfeitures, to be levied by distress by warrant of such commissioner or justice; and which shall be disposed of, one moiety to the person who shall apprehend such offender or give information, as the case may

Penalty on persons guilty of misdemeanors.

be, and the other moiety to the use of his majesty ; and on a return being made by the constable, within a reasonable time to be set by the justice, that there is insufficient distress, the offender, who shall meanwhile be kept in custody, shall be committed to the common gaol, without bail, for three calendar months, unless such penalty be sooner paid. *s. 16.*

Adjudication of misdemeanors to be certified to the sessions.

Every such adjudication of such misdemeanor shall be certified by such commissioner or justice to the next sessions, to be there filed ; and such conviction shall not be set aside or quashed for want of form, nor be removed by *certiorari*, but shall be final to all intents and purposes whatsoever. *s. 17.*

One commissioner or justice may determine offences, where the value of the stores do not exceed 20s.

Every such commissioner or justice may hear and determine all offences in a summary way, in cases where the stores found are of not exceeding 20s. value ; and upon information within three calendar months may cause the party accused to be apprehended and brought before him, or if he cannot be found, may summon him by leaving such summons at his last or usual place of abode ; and may also summon the witnesses on either side, and examine into the matter of fact, and on due proof, by confession, or the oath of one witness, may give judgment accordingly, and inflict a fine of 10*l.* upon him, one moiety whereof shall go to the informer, and the other moiety to the king, after first deducting the charges ; to be levied by distress, which if not redeemed within six days may be sold, and for want of sufficient distress such offender shall be committed to the common gaol for three calendar months, unless such fine be sooner paid ; or in lieu of such fine, the commissioner &c. may cause such offender to be imprisoned and kept to hard labour in the house of correction for three calendar months, as such commissioner or justice shall think fit : And such commissioner or justice shall cause the moiety of such last-mentioned fine, and also the moiety of every sum arising from the sale of any barge or craft sold under the authority of this act and paid into his hands as aforesaid, to be paid to the treasurer of the navy within 30 days after the expiration of the year in which such fine shall have been received ; and in default such commissioner or justice shall forfeit 50*l.* to be recovered with double costs in any of the courts at *Westminster*. *s. 18.*

Fines may be mitigated.

Provided, that such commissioner or justice, if he shall see cause, may mitigate any such fine of 10*l.* as he shall think fit, so as not to reduce the same to less than one moiety over and above the costs. *s. 19.*

If in lieu of a fine the offender be imprisoned, the informer to receive a reward of 5*l.*

In case such commissioner or justice shall in lieu of such fine order such offender to be imprisoned and kept to hard labour as aforesaid, then the informer shall have as a reward the sum of 5*l.* which shall be paid by the treasurer of the navy, upon such person producing a certificate under the hand and seal

seal of the commissioner or justice who convicted such offender, certifying such conviction and punishment, and the name of the person in his judgment entitled to such reward, which certificate such commissioner or justice is required to give without fee: Provided that no such summary proceeding shall be had as aforesaid before any justice, without the consent in writing of the commissioners of the navy, and every adjudication given without such consent shall be void. *f. 20.*

The judge or justices may mitigate the penalty imposed by *9 G. 10 W. c. 41.* as they shall see cause, and may commit the offender to gaol till payment, or may punish him corporally by causing him to be publicly whipped, or committed to some public workhouse to be kept to hard labour for six months, or a less time. *9 G. c. 8. f. 4.*

Mitigation.

If any person shall, either in this realm or in any place thereto belonging, wilfully and maliciously set on fire, burn, or destroy, any of his majesty's military, naval, or victualling stores or other ammunition of war, or any place where any such stores or ammunition shall be kept; he, and also his aiders and abettors, shall be guilty of felony without benefit of clergy. And they may be tried either where the offence was committed, or in any county within this realm. *12 G. 3. c. 24.*

Burning or destroying stores.

If any person shall think himself aggrieved by the judgment of such commissioner or justice, concerning any stores under the value of 20s, he may, upon entering into recognizance with one surety, to the amount of treble the value of the fine, appeal to the next sessions, who may summon and examine witnesses upon oath, and finally hear and determine the same; and if such judgment shall be affirmed, such sessions may award the person to appealing to pay such costs as to them shall seem meet. *f. 21.*

Appeal.

And to prevent frivolous and vexatious appeals, the conviction may be drawn up in the following form, or to the like effect;

Conviction.

BE it remembered that on the ——— day of ——— in the year of our Lord ——— A. O. of ——— in the ——— of ——— was convicted before me ——— one of the commissioner of his majesty's ——— [or one of his majesty's justices of the peace for the ——— of ——— as the case may be] for it at the said A. O. on the ——— day of ——— now last past, at the ——— of ——— in the said ——— of ——— did (here state the offence) contrary to the statute in such case made and provided. Given, &c.

Which conviction shall be returned to the next sessions to be there filed, and shall not be removable by *certiorari* into any other court whatsoever. *f. 22.*

Certiorari.

Witnesses not appearing.

Not to prevent offenders being prosecuted as receivers of stolen goods.

Penalty for giving false certificates.

Magistrates, &c. to have the protection afforded by 24 G. 2. c. 44.

Persons giving false evidence.

If any person summoned as a witness shall neglect to appear at the time and place appointed without reasonable excuse, he shall forfeit 10*l.*, to be recovered levied and applied in like manner as fines on summary convictions. *f.* 23.

Provided always, that nothing herein shall prevent any person accused of selling or receiving stolen goods under the value of 20*s.* from being prosecuted as a receiver of stolen goods, or for unlawfully having the same in his custody, or concealing the same under the said acts 9 & 10 *W.* 3., 9 *G.* 1., or the 17 *G.* 2., so as the same person be not punished twice for the same offence. *f.* 24.

If any person shall give any false certificate, he shall on conviction forfeit 200*l.* and shall be subject to further corporal punishment as is by this act directed with respect to persons having in their possession or concealing naval stores; half to the king, and half with full costs to the informer. *f.* 26.

Every commissioner, justice, and other person, acting in the execution of this act, shall have the same benefits as are given to justices and other peace officers by 24 *G.* 2. c. 44. or any other act. 39 & 40 *G.* 3. c. 89. *f.* 28.

And if any person upon his examination on oath shall wilfully and corruptly give false evidence, he shall on conviction be adjudged guilty of wilful and corrupt perjury. *f.* 36.

Habiliments of war.] These extend to harness and all utensils that belong to war. 3 *Inst.* 79.

*Embezzle &c. to the value of 20*s.**] Though the statute only speaks of embezzling or stealing stores to the value of 20*s.*, still any of the officers who have a bare charge of the stores in the king's warehouses, or a mere authority to deliver them out, may be guilty of felony at common law in stealing them to any amount from such places of deposit. Accordingly, in *Thorne's case* (*Exeter Sp. Ass.* 1800, *cor. Palmer* serjeant) where it appeared that the prisoner was foreman of one of the storehouses in *Plymouth* dock containing naval stores, and had given security in 200*l.* for the faithful discharge of his duty, and was entrusted with the receiving and delivering out again of the stores in the absence of the clerk, whose proper duty it was when present; and that certain kersey was cut off by him from a bale in the stores, and delivered by him to an accomplice to be taken out of the yard, though the value were under 20*s.*; he was by the direction of the court convicted of larceny at common law in stealing the kersey. 2 *East's P.C.* c. 16. *f.* 53.

Receive or have in his possession.] A widow woman was indicted before Mr. J. *Foster* on the western circuit, on the *Stat.* 9 & 10 *W.* 3. c. 41. for having in her custody divers pieces of canvas marked with the king's mark in the manner described in the act. The defence was, that when there hap-

pened to be in his majesty's stores a considerable quantity of old sails, no longer fit for that use, it had been customary for the persons entrusted with the stores to make a public sale of them in lots; and that the canvas produced in evidence, which happened to have been made up long since, some for table linen and some for sheeting, had been in common use in the defendant's family a considerable time before her husband's death, and upon his death came to the defendant, and had been used in the same public manner by her to the time of the prosecution. This kind of evidence was strongly opposed by the counsel for the crown, who insisted that, as the act allows of but one excuse, the defendant, unless she could avail herself of that, could not resort to any other. That if the canvas were really bought of the commissioners, or the persons acting under them, a certificate ought to have been taken at the time of the purchase; and the second section admits of no other excuse. But the judge was of opinion that though the clause in the statute, which directs the sale of these things, had not pointed out any other way for indemnifying the buyer than the certificate, and though the second section seemed to exclude any other excuse for those in whose custody the stores should be found, yet that the circumstances of every case ought to be taken into consideration. That there was no room to say that this canvas came into the defendant's possession by any act of her own. That it was brought into family use in her husband's life time; that it continued so till the time of his death, when by act of law it came to her. That things of that kind had been frequently exposed to public sale; and though the act pointed out an expedient for the indemnity of the buyers, yet probably few buyers, especially where small quantities had been bought at one sale, had used the caution suggested to them by the act. And if the defendant's husband really bought the linen at a public sale, but neglected to take a certificate, or did not preserve it, it would be contrary to natural justice, after such a length of time, to punish her for his neglect. He therefore directed the jury, that if upon the whole evidence they were of opinion that the defendant came to the possession of the linen without any fraud or misbehaviour on her part, they should acquit her; and she was acquitted. *Foss. Append. 439. edit. of 1792.*

In the case of *T. Cole, cor. Le Blanc, J. at Winchester Spr.* A.D. 1801, the indictment stated, that the prisoner on the 28th of January 1801, unlawfully willingly and knowingly did receive and have in his custody possession and keeping certain naval stores of the king, being all marked with the broad arrow, he not being a contractor &c. against the statute &c. The jury found the prisoner guilty; but said they did not find that he received the stores after the 28th of July 1800, but

Stores.

but only that he had them in his possession after that day. Judgment was thereupon respited to take the opinion of the Judges; a majority of whom inclined to think that the statute was to be construed in the disjunctive, and the word, "or" (receive *or* have) not to be taken as "and;" but because of the disagreement of some, and that the case was not likely to occur again, the prisoner on the finding of the jury was recommended to mercy. It seemed however to be agreed that the case was not within the *stat. 9 & 10 W. 3. c. 41.*, because it was not charged that the goods were found in the prisoner's possession. *2 East's P. C. c. 16. f. 153.*

Stray. See *Entrap.*
Subornation. See *Perjurp.*

Summons.

Summons,
where proper.

IN all legal proceedings, the person complained of ought to have notice of the charge laid against him, and to have an opportunity of being heard in his own defence. Consequently, where a person is accused before the justices, they ought to summon the party to appear, or issue their warrant to bring him before them. The manner of conveying the parties is sometimes directed by the acts of parliament creating the respective offences, which therefore ought to be pursued accordingly. In other cases, where it is left discretionary in the justices, it seemeth most agreeable to the mildness of our laws to put the party to no more inconvenience than needs must; and therefore where the case will bear it, a summons seems more apposite than a compulsory process. But in cases of sureties of the peace, petty larcenies, and other felonies, and generally where the king is party, and also in cases between party and party where the body of the offender is liable, a warrant is the regular process, and not a summons.

Warrant, where
proper.

Persons sum-
moned must
wait.

In the summons it is usual, and upon many accounts convenient, to fix not only a day but a particular time of the day for the appearance of the party; but if he shall appear at the time, and the justice shall not attend, he is not to go away, but must wait during the remaining part of the day, for many things may happen to hinder the justice's immediate attendance.

General form of a summons.

Westmorland. { To the constable of _____

WHEREAS information and complaint hath been made before me J. P. esquire; one of his majesty's justices of the peace for the said county, that A. O. of _____ in the county aforesaid, labourer, on the _____ day of _____ now last past, at _____ in the county aforesaid, did [here set forth the offence as charged in the information]; These are therefore to require you forthwith to summon the said A. O. to appear before me at _____ in the said county on _____ the _____ day of _____ at the hour of _____ in the _____ noon of the same day, to answer to the said information and complaint, and to be further dealt withal according to law. And be you then there, to certify what you shall have done in the premises. Herein fail you not. Given under my hand and seal the _____ day of _____ in the year of our Lord _____

Summons of a witness.

Westmorland. { To the constable of _____

WHEREAS information hath been made before me J. P. esquire, one of his majesty's justices of the peace for the said county, that [here set forth the substance of the complaint]; and that A. W. of _____ in the said county yeoman is a material witness to be examined concerning the same; these are therefore to require you to summon the said A. W. to appear before me at _____ in the said county on _____ the _____ day of _____ at the hour of _____ in the _____ noon of the same day, to testify his knowlege concerning the premises. Herein fail you not. Given under my hand and seal, the _____ day of _____ in the _____ year of the reign of _____

Sunday. See Lord's Day.

Surety for the peace.

OUT of the Latin word *pax*, the Normans formed their *paix*, and we (out of that) our *peace*. Lamb. 5. Surety of the peace.

Surety of the peace is the acknowledging of a recognizance, or bond to the king, taken by a competent judge of record for keeping the peace. *Dalt. c. 116.*

And

Surety for the peace.

And this surety of the peace every justice of the peace may take and command by a twofold authority; 1. As a minister, commanded thereto by a higher authority; as when a writ of *supplicavit*, directed out of the chancery or king's bench, is delivered to him. 2. As a judge, and by virtue of his office, derived from his commission. *Dalt. c. 116.*

Concerning which I will shew,

- Sect. I. *For what cause surety of the peace shall be granted.* - - - 364
- II. *At whose request it shall be granted.* 366
- III. *Against whom it shall be granted.* *ib.*
- IV. *In what manner it shall be granted.* 367
[21 J. c. 8.]
- V. *How the peace warrant may be superseded.* *ib.*
- VI. *How the peace warrant shall be executed.* 368
- VII. *What ought to be the form of a recognizance of the peace.* - - - 370
- VIII. *How such recognizance shall be certified.* 371
- IX. *How such recognizance may be forfeited.* 372
[3 H. 7. c. 1.]
- X. *How the recognizance being forfeited shall be proceeded on.* - - - 373
- XI. *How such recognizance may be discharged.* - - - 374

I. For what cause surety of the peace shall be granted.

For what cause
to be granted.

By the commission of the peace, one or more justices have power to cause to come before them all those who to any of the king's people concerning their bodies, or the firing of their houses, have used threats, to find sufficient security for the peace or their good behaviour towards the king and his people; and if they shall refuse to find such security, to cause them in the king's prisons to be safely kept, until they shall find such security.

Fear of corporal
hurt, or burning
his house.

Upon which Mr. *Hawkins* observes, that it seemeth clear that wherever a person has just cause to fear that another will burn his house, or do him a corporal hurt, as by killing or beating him, or that he will procure others to do him such mischief, he may demand the surety of the peace against such person, and that every justice of the peace is bound to grant it, upon the party's giving him satisfaction upon oath that he is actually under such fear, and that he has just cause to be so, by reason of the other's having threatened to beat him, or laid in wait for that purpose; and that he doth not require

require it out of malice or for vexation. 1 *Hawk. c. 60. f. 6.*

Also it seems the better opinion that he who is threatened to be imprisoned by another has a right to demand the surety of the peace; for every unlawful imprisonment is an assault and wrong to the person of a man. And the objection that one wrongfully imprisoned may recover damages in an action, and therefore needs not the surety of the peace, is as strong in the case of battery as imprisonment; and yet there is no doubt, but that one threatened to be beaten may demand the surety of the peace. *Id. f. 7.*

Being threatened with imprisonment.

But if the justice shall perceive that surety is demanded merely of malice, or for vexation only, without any just cause or fear, it seemeth he may safely deny it. As in common experience we find it, that where a person shall upon a just cause come and crave the peace against another, and hath it granted to him; when such other person shall come before the justice, he likewise will crave the peace against the former, and will perhaps surmise some cause, but yet will nevertheless be content to surcease his suit and demand, so as the other will relinquish to have the peace against him: here the justice shall do well not to be too forward in granting the peace thus required by the latter, but to persuade him and to shew him the danger of his oath which he is to take; but yet if he will not be persuaded, but will take his oath that he is in fear, where indeed he neither doth fear nor hath cause to fear, this oath shall discharge the justice, and the fault shall remain on such complainant. *Dalt. c. 116.*

Where demanded through malice or vexation.

Also, if a man will require the peace, because he is at variance or in suit with his neighbour, it shall not be granted. *Id.*

Also Mr. *Lambard* says, he takes it to be somewhat clear that a justice may not by the commission award a precept of the peace in behalf of a man that will require it, because he feareth that he will do harm to his servants or cattle. *Lamb. 83.*

Fear of harm to his servants or cattle.

And Mr. *Dalton* says, where a man is in fear that another will hurt his servants, or his cattle, or other goods, this surety of the peace shall not be granted by the justice. But in this case *Fitzherbert* saith, the party may have a special writ out of the chancery directed to the sheriff, that he shall cause such person to find surety, that he shall do no hurt or damage to the other man in his body, or to his servants or goods; and if he will not find surety, that then he shall arrest and detain him in prison until he shall find surety. *Dalt. c. 116.*

The reason why a man may not have sureties of the peace against another, for that he feareth he will do harm to his servants, seemeth to be, because it should be the servant's fear

fear in such case, and not the *master's*; and the servant's own oath before the justice is necessary. And as to his *goods*, it seemeth clear that no sureties of the peace ought to be granted in that case; for the recognizance of the peace when taken is only that the party shall keep the peace towards the king and all his liege people.

Threatening a man's wife or child.

But Mr. *Dalton* says, that if a man shall threaten to hurt his *wife* or *child*, he thinks he may crave the peace at the justice's hands, by the words of the commission, and that the justice ought to grant it. *Dalt. c. 116.*

Must be a fear of present or future danger.

Note also, the surety of the peace shall not be granted, but where there is a fear of some present or future danger, and not merely for a battery or trespass that is past, or for any breach of the peace that is past; for this surety of the peace is only for the security of such as are in fear: but the party wronged may punish the offender by indictment; and the justice, if he see cause, may bind over the affrayer. *Dalt. c. 11.* That is, he may bind him over to answer unto the indictment.

II. *At whose request it shall be granted.*

May be demanded by any person.

As to this, Mr. *Hawkins* says, it seems to be agreed at this day that all persons whatsoever, under the king's protection, being of *sane memory*, whether they be natural and good subjects, or *aliens* or *excommunicate*, or attainted of *treason*, have a right to demand surety of the peace. And it is certain, a *wife* may demand it against her husband threatening to beat her outrageously, and that a *husband* also may have it against his wife. 1 *Haw. c. 60. s. 2. Crom. 118.*

Upon which Master *Crompton* observeth, that if the wife in such case cannot find sureties, she shall be committed; and so says he, a man may be rid of a shrew. *Crom. 118.*

And Mr. *Dalton* says an infant under the age of 14 years may demand this surety, and it shall be granted to him. *Dalt. c. 117.*

But as to a person of *non sane memory*, Mr. *Dalton* says, this surety shall neither be granted against him nor to him upon his own request; but yet if there shall be cause, the justice ought to provide for his safety. *Id.*

III. *Against whom it shall be granted.*

Against whom.

There seems to be no doubt, but that it ought, upon a just cause of complaint, to be granted by any justice of the peace, against any person whomsoever, under the degree of nobility, being of *sane memory*, whether he be a magistrate or private person, and whether he be of full age, or under age. But infants and *femes covert*s ought to find security by their friends,

Infants, *femes covert*s, and

friends, and not to be bound themselves. And the safest way of proceeding against a *peer*, is by complaint to the court of chancery or king's bench. 1 *Haw. c. 60. f. 3.*

IV. In what manner it shall be granted.

It seemeth certain that, if the person to be bound be in the presence of the justice, he may be immediately committed, unless he offers sureties; and from hence it follows *à fortiori*, that he may be commanded by word of mouth to find sureties, and committed for his disobedience: but it is said that if he be absent, he cannot be committed without a warrant from some justice in order to find sureties, and that such warrant ought to be under seal, and to shew the cause for which it is granted, and at whose suit (that the party may provide his sureties), and that it may be directed to any indifferent person. 1 *Haw. c. 60. f. 9.*

Manner of granting sureties.

The justice may make the warrant to bring the party before himself or some other justice, or he may make it to bring the party before himself only; for he that maketh the warrant for the most part hath the best knowledge of the matter, and therefore he is the fittest to do justice in the case. 5 *Co. 59.*

Warrant to bring up the party.

As to the granting process of the peace or good behaviour out of the chancery or king's bench, it is enacted by the 21 *J. c. 8.* that it shall not be granted but upon motion in open court, and declaration in writing and upon oath to be exhibited by the party desiring such process, of the causes for which such process shall be granted; the motion and declaration to be mentioned on the back of the writ. And if it shall afterwards appear that the causes are untrue, the court may order costs to the party grieved, and commit the offender till paid.

Process out of the chancery or king's bench.

T. 33 G. 2. R. v. Bomasser and others. The defendants lived at *Portsmouth*; and articles of the peace were exhibited against them in the court of king's bench. It had been the usual practice that defendants in such cases must personally appear and give surety in court. But the present defendants living at such a distance that it would be oppressive to bring them up upon such an errand, the court ordered the attachment to be indorsed, that sureties might be taken before the justices in *Hampshire*, in a stated sum, to be regulated by the discretion of the court; and laid this down as a general rule, to be observed in all similar cases for the future. 1 *Black. Rep. 233.*

V. How the peace warrant may be superseded.

It is said that if one who fears that the surety of the peace will be demanded against him, find sureties before any justice

Finding sureties before a justice.

tice of the same county either before or after a warrant is issued against him, he may have a *superfedeas* from such justice, which shall discharge him from arrest from any other justice at the suit of the same party, for whose security he has given such surety. 1 *Haw. c. 60. f. 14.*

In which *superfedeas* it is not necessary to name either the sureties, or the sums in which they are bound: but yet it is the better form to express them both. *Dalt. c. 118.*

Superfedeas in
the chancery or
king's bench.

Also, it is said, that an appearance upon a recognizance for the peace may be superseded, by finding sureties in the chancery or king's bench, and purchasing a writ testifying the same; but this practice having been often abused, it is enacted by the 21 *J. c. 8.* that no writs of *superfedeas* shall be granted out of the chancery or king's bench, but upon motion in open court, and on such sufficient sureties as shall appear on oath to the court, to be assessed in the subsidy book at 5*l.* lands, or 10*l.* goods, and unless it shall also first appear to the court that the process of the peace or good behaviour is prosecuted against him desiring such *superfedeas, bonâ fide*, by some party grieved in that court out of which the *superfedeas* is desired to be awarded. 1 *Haw. c. 60. f. 14.*

VI. *How the peace warrant shall be executed.*

By whom to be
executed.

It can be executed only by the persons to whom it is directed, or some of them, unless it be directed to the sheriff, who may either by parole, or by precept in writing, authorize an officer sworn and known to serve it, but cannot empower any other person without a precept in writing. 1 *Haw. c. 60. f. 11.*

Breaking open
doors.

It seems generally agreed that where a person, authorized by warrant of a justice of the peace to compel a man who is sheltered in an house to find sureties for the peace or good behaviour, is denied quietly to enter into it, he may justify breaking open the doors in order to take him: but he must first signify to those in the house the cause of his coming, and request them to give him admittance. 2 *Haw. c. 14. f. 2.*

What justice to
be carried before.

If the warrant specially direct that the party shall be brought before the justice who made it, the officer ought not to carry him before any other: but if the warrant be general, to bring him before any justice of such place, the officer has the election to bring him before what justice he pleaseth, and may carry him to prison for refusing to find surety before such justice. 1 *Haw. c. 60. f. 13.*

And if the party be carried before another justice, and not before him who issued the warrant, such other justice must take the surety, and bind him by recognizance in all points as the form of the precept doth require. And thereupon such other

other justice having so taken surety of the peace may and ought, upon request, to make his *superfedeas* to all officers, and to all other justices of the same county; and thereby the said party shall be discharged from finding other surety, and from any other arrest from the same cause. But by such *superfedeas*, the other justice cannot discharge the warrant of the first justice, until the party be bound indeed, nor give any other day to the party to appear. *Dalt. c. 118.*

If the warrant be in the common form, requiring the officer to cause the party complained of to come before the justice to find sufficient surety, and if he shall refuse so to do, to convey him immediately to prison, without expecting any further warrant, until he shall willingly do the same, the officer who serves it before he makes any arrest ought first to require the party to go with him, and find sureties according to the purport of the warrant, but upon refusal to do either, that is, either to go before the justice, or to find sureties, he may carry him to the gaol by force of the same warrant without more. 1 *Haw. c. 60. s. 12. Dalt. c. 118.*

Whether he may be carried to prison without any further warrant.

And yet the constable, or officer, may bring him in that case before the justice; and if he refuse there to give sureties, he may commit him there without further warrant or *mitimus*. 2 *H. H. 112.*

Nevertheless, notwithstanding these great authorities, it may not be convenient for the justice to leave so much to the constable's judgment, as to determine what shall or shall not be deemed a refusal to find such sureties; for that the constable is constituted a judge in such case by no law. And much less doth it seem adviseable to require in the warrant, as is usual, that the constable shall carry the party to gaol, if he shall refuse to find *sufficient* sureties; it doth not appear how the constable can any way be deemed a competent judge of that; for it is certain that he cannot administer an oath to such sureties, or others, whereby to inform himself of such sufficiency.

If the officer do arrest the party, and do not carry him before the justice to find sureties; or upon the refusal of the party, if the officer shall arrest him and do not carry him to the gaol, in both these cases the officer is punishable by the justices for this neglect, by indictment and fine at their sessions. And also the party arrested may have his action of false imprisonment for the arrest; for where the officer doth not pursue the effect of his warrant, his warrant will not excuse him of that which he hath done. *Dalt. c. 118.*

Officer not doing his duty.

When the party cometh before the justice, he must offer sureties, or else the justice may commit him; for the justice needeth not to demand surety of him. *Dalt. c. 118. 169.*

Must offer sureties.

If the justice was deceived in the sufficiency of the sureties, he

Insufficient sureties.

or any other justice may afterwards compel the party to find and put in other sufficient sureties, and may take a new recognizance for the same. *Dalt. c. 116. 119.*

Sureties dying.

If the sureties die, the party principal shall not be compelled to find new sureties. *Dalt. c. 119*, because their executors and administrators are liable.

Breaking the bond.

But if a man that was bound to keep the peace hath broken his bond, the justices ought of discretion to bind him anew. *Lamb. 78.*

But not until he be thereof convicted by due course of law; for before conviction, he standeth indifferent whether he hath forfeited his recognizance or not. *Crom. 125.*

VII. *What ought to be the form of a recognizance for the peace.*

Taking the recognizance.

The recognizance, which the justice takes for the keeping of the peace, is rather of congruity, than by any express authority given either by the common law, or by statute. *Dalt. c. 168.*

If it be taken in pursuance of a writ of *supplicavit*, it must be wholly governed by the direction of such writ: But if it be taken before a justice, upon a complaint below, it seems that it may be regulated by the discretion of such justice, both as to the number and sufficiency of the sureties and the largeness of the sum, and the continuance of the time for which the party shall be bound. And it hath been said, that a recognizance to keep the peace as to any person, for a year, or for life, or without expressing any certain time (in which case it shall be intended for life), or without fixing any time or place for the party's appearance, or without binding him to keep the peace against all the king's people in general, is good. *1 Haw. c. 60. s. 15.*

However it seems to be the safest way, to bind the party to appear at the next sessions of the peace, and in the mean time to keep the peace as to the king and all his liege people, especially as to the party, according to the common form of precedents. *Id. s. 16.*

[Notwithstanding a general practice has prevailed of binding the party over to the next sessions, and then calling on him again to find sureties for the original cause to the following sessions, and so on from sessions to sessions, it seems questionable how far that practice is correct. When the complaint is made, the magistrates below after hearing the parties, ought, by analogy to other cases, to pronounce the full judgment at once, and to bind the party over to keep the peace for such a definite time as will in their opinion answer the end proposed. But according to the present practice, after the party has suffered

suffered the original judgment formed on the original complaint, he is required at the next sessions to find sureties again, without any fresh complaint being exhibited against him; and thus he is twice punished for the same offence. I am not aware that this precise point has ever been determined. But in *R. v. Bowes*, E. 27. Geo. 3. B. R. where lady *Strathmore* had exhibited articles of the peace against the defendant (her husband), the court of king's bench ordered him to give security for 14 years, (it being a case of great outrage, and articles of the peace having been once before exhibited against him on a different complaint,) himself in 10,000l. and two sureties in 5,000l. each. The defendant afterwards applied to the court to reduce the time to one year instead of fourteen, and also to diminish the sum; and in the course of the argument in support of the rule, the defendant's counsel suggested that the court might take bail for one year at first, and afterwards renew that from year to year, if they should see occasion, without any fresh facts being exhibited against him. But though the court, on the particular circumstances of the case, ordered the time to be reduced to two years, because an information then depending for the outrage complained of would be disposed of within that time, when the court might deal with the defendant as they thought proper, in the event of his being convicted, Mr. J. *Ashurst*, in answer to the suggestion at the bar, that new bail might be required of the defendant at the end of the first year on the original complaint, said "I very much doubt whether we have such a power. It has been admitted that there never was any instance of the kind; and I confess I should be very loath to establish such a precedent." 1 *Durnf. &c.* 700.—D.]

VIII. *How such recognizance shall be certified.*

If it be taken by force of a writ of *supplicavit*, it needs not be certified till the justice receive a writ of *certiorari* to that purpose. But if it be taken upon a complaint below, it must be certified sent or brought to the next sessions, by force of the statute of the 3 H. 7. c. 1. that the party so bound may be called. 1 *Haw. c.* 60. f. 18.

How to be certified.

IX. *How such recognizance may be forfeited.*

There are divers things which may be done against the peace, and divers offences for which an indictment against the peace will lie, and yet the committing or doing such offence or act shall be no forfeiture of the recognizance for

What is deemed no forfeiture.

the peace; for that the act that shall cause a forfeiture of such recognizance must be done or intended unto the *person* as is aforesaid, or in terror of the people. Therefore to enter into lands, where he ought to bring his action; or to disseise another of his lands; or to enter into lands or tenements with force, being without offer of violence to any man's person, and without public terror; or to do a trespass in another man's corn or grals; or to take away another man's goods wrongfully, so it be not from his person; or to steal another man's horse, or other goods feloniously, being not from his person; all these, and the like, are breaches of the peace, and yet these will make no breach of this recognizance, nor breach of the peace within the meaning of the commission of the peace. *Dalt. c. 121.*

What shall be
a forfeiture.

But the recognizance is forfeited, if the party make default of appearance, and the same default shall be recorded.

3 *H. 7. c. 1.*

However, if the party have any excuse for his not appearing, it seems that the sessions are not bound peremptorily to record his default, but may equitably consider of the reasonableness of such excuse. 1 *Haw. c. 60. f. 19.*

Case of sickness.

And Mr. *Dutton* says, in case of the sickness of the party, so that he cannot appear, he has known that the justices upon due proof thereof have forbore to certify or record such forfeiture or default; and that they have taken sureties for the peace of some friends of his present in court, until the next sessions; for that the principal intent of the recognizance was but the preservation of the peace. But he queries how this is warrantable by their oath. *Dalt. c. 120.*

Actual violence.

Also, there is no doubt but that it may be forfeited by any actual violence to the person of another, whether it be done by the party himself, or by others through his procurement; as manslaughter, rape, robbery, unlawful imprisonment, and the like. 1 *Haw. c. 60. f. 20.*

Threatening
words.

Also, it hath been holden that it may be forfeited by any treason against the king's person, and also by any unlawful assembly in terror of the people, and even by words directly tending to a breach of the peace, as by challenging one to fight, or in his presence threatening to beat him. *Id. f. 21.*

Otherwise it is if the party be absent; and yet if the party so bound shall threaten to kill or beat a person who is absent, and after shall lie in wait for him to kill or beat him, this is a forfeiture of the recognizance. *Dalt. c. 121.*

However, it seems that it shall not be forfeited by bare words of heat and choler, as calling a man a knave, teller of lies, rascal, or drunkard; for though such words may provoke a choleric man to break the peace, yet they do not directly

refly challenge him to it, nor does it appear that the speaker designed to carry his resentment any farther: and it hath been said that even a recognizance for the good behaviour shall not be forfeited for such words; from whence it follows *à fortiori*, that a recognizance for the peace shall not.
1 *Haw. c. 60. f. 22.*

Also, there are some actual assaults on the person of another which do not amount to a forfeiture of such recognizance; as if an officer, having a warrant against one who will not suffer himself to be arrested, beat or wound him in the attempt to take him; or if a parent in a reasonable manner chastise his child; or a master his servant, being actually in his service at the time; or a schoolmaster his scholar; or a jailer his prisoner; or even a husband his wife, as some say; or if one confine a friend who is mad, and bind and beat him, in such a manner as is proper in his circumstances; or if a man force a sword from one who offers to kill another therewith; or if a man gently lay his hands upon another, and thereby stay him from inciting a dog against a third person; or if a man beat another (without wounding him, or throwing at him a dangerous weapon) who wrongfully endeavours with violence to dispossess him of his lands or goods, or the goods of another delivered to him to be kept, and will not desist upon his laying his hands gently on him, and disturbing him; or if a man beat, or (as some say) wound or maim one who makes an assault upon his person or that of his wife, parent, child or master, especially if it appear that he did all he could to avoid fighting before he gave the wound; or if a man fight with or beat one who attempts to kill any stranger; or if a man even threaten to kill one who puts him in fear of death, in such a place where he cannot safely fly from him; or if one imprison those whom he sees fighting, till the heat is over. 1 *Haw. c. 60. f. 23. 24.*

An actual assault in some cases does not amount to a forfeiture.

X. How the recognizance being forfeited shall be proceeded on.

It is said, that the justices cannot in any case proceed against the party for a forfeiture of his recognizance, either in respect of his not appearing, or breaking the peace; but that the recognizance itself, with the record of default of appearance, ought to be removed into some of the courts at *Westminster*, who shall proceed by *scire facias* upon such recognizance; and so it ought to be, if it be presented by the jury or great inquest, that the party hath forfeited his recognizance by breach of the peace. 1 *Haw. c. 60. f. 18. Dalt. Old Ed. c. 70.*

XI. *How such recognizance may be discharged.*

Discharged on
appearance.

He who is bound to the peace, and to appear at a certain day, must appear at that day and record his appearance, although he who craved the peace cometh not to desire that it may be continued; otherwise the recognizance cannot be discharged. *Dalt. c. 120.*

If the recognizance be made to keep the peace generally, without any time or day limited, it shall be construed to be during the party's life; and this the justice may do upon reasonable cause: but if such surety be so taken during the offender's life, neither the king, nor the justice, nor the party, can release or discharge it: and therefore the justice must be well advised, how he granteth such surety. *Dalt. c. 119, 120.*

By the death of
the king.

But it seems to be agreed, that it may be discharged by the death or demise of the king in whose reign it was taken, or of the principal party who was bound thereby, if it were not forfeited before. *1 Haw. c. 60. f. 17.*

Or the release of
the party.

Also it hath been holden, that it may be discharged by the release of the party at whose complaint it was taken, being certified together with it; but this may justly be questioned, because the recognizance is not to the subject but to the king, and consequently cannot be discharged by the subject, who is not a party to it: however such a release will be a good inducement to the court, to which such a recognizance shall be certified, to discharge it. *Id.*

May be dis-
charged or con-
tinued by the
sessions.

And if a man be bound to keep the peace towards the king and all his people, but not towards any person certain, and to appear at such a sessions, the court at that sessions may make proclamation, that if any man can shew cause why the peace granted against such a one shall be continued, he shall speak; and if no person cometh to demand the peace against him, or to shew cause why it should be continued, then the court may discharge him. But if a man be bound as aforesaid, and especially to keep the peace towards a certain person, there though such person cometh not to desire the peace may be continued, yet the court by their discretion may bind him over till the next sessions, and that may be to keep the peace against that person only, if they shall think good; for it may be that the person who first craved the peace is sick, or otherwise letted, so as he cannot come to that sessions to demand the continuance of the peace further. *Dalt. c. 120.*

How pardoned
by the king.

Also it is certain, that such a recognizance cannot be pardoned or released by the king before it be broken; because the subject hath a kind of interest in it; but being forfeited, then the king, and no other, may release and pardon the forfeiture. *1 Haw. c. 60. f. 17.*

And

And it is said, that the sureties are not discharged by their death ; but that their executors or administrators (as hath been said) do continue bound. *Id. Dalt. c. 120.*

Sureties dying.

Likewise, if the party be imprisoned for default of sureties, and after he that demandeth the peace against him happen to die, it seemeth the justice may make his *liberate* or warrant for the delivery of such prisoner ; for after such death, there seemeth no cause to continue the other in prison. Also, any justice may, upon the offer of such prisoner, take surety of him for the peace, and may thereupon deliver him. *Dalt. c. 118.*

He that demandeth sureties dying.

Surety for the good behaviour.

A MAN may be compelled to find sureties both for the good behaviour and for the peace ; and yet the good behaviour includeth the peace : and he that is bound to the good behaviour is therein also bound to the peace. *Dalt. c. 122.*

Good behaviour includeth the peace.

This surety for the good behaviour being of near affinity to surety for the peace, both as to the manner in which it is to be taken, superseded, and discharged, it seemeth not to require a particular consideration, save only as to these two points ;

- I. *For what misbehaviour it is to be required.*
- II. *For what it shall be forfeited.*

I. *For what misbehaviour it is to be required.*

It doth not appear that the conservators of the peace at common law had any power as touching the *good behaviour*, further than as it had a relation to the *peace* ; and not as it is contra-distinguished from it. And it seemeth that the power which the justices of the peace do exercise at this day, in relation thereto, doth solely depend upon the commission of the peace, and the statute of the 34 *Ed. 3. c. 1.* (Except in some special instances wherein the power of binding to the good behaviour is given to them by particular statutes, which pertain not to this general title.)

The words in the commission are these ; *We have assigned you jointly and severally, and every one of you, our justices to keep our peace—and to cause to come before you, or any of you, all those who to any one or more of our people concerning their bodies, or the firing their houses, have used threats ; to find sufficient security for the peace of their good behaviour towards us and our people ;*

Power given to justices by the commission.

people; and if they shall refuse to find such security, then them in our prisons until they shall find such security to cause to be safely kept.

Power given
by Statute.

The statute of the 34 Ed. 3. c. 1. as to this matter runs thus; *In every county shall be assigned for the keeping of the peace, one lord, and with him three or four of the most worthy in the county, with some learned in the law; and they shall have power to restrain the offenders, rioters, and all other barators, and to pursue arrest take and chastise them according to their trespasss and offence: and to cause them to be imprisoned and duly punished according to the law and custom of the realm, and according to that which to them shall seem best to do by their discretions and good advisement; and also to inform them, and to enquire of all those that have been pillors and robbers in the parts beyond the sea, and be now come again, and go wandering, and will not labour as they were wont in times past; and to take and arrest all those that they may find, by indictment, or by suspicion, and to put them in prison; and to take of all them that be not of good fame, where they shall be found, sufficient surety and mainprize of their good behaviour towards the king and his people, and the other duty to punish, to the intent the people be not by such rioters or rebels troubled nor endamaged, nor the peace blemished, nor merchants nor others passing by the highways of this realm disturbed, nor put in the peril which may happen of such offenders.*

This statute seems to have had in view chiefly the disorders to which the country was then liable, from great numbers of disbanded soldiers, who having served abroad in the wars of that victorious king were grown strangers to industry, and were rather inclined to live upon rapine and spoil. *Barl. 524.*

But whatever the natural and obvious sense of it may be when compared with the history and circumstances of those times, it is certain that it hath been carried much farther by construction, and the purport of it hath been extended by degrees, until at length there is scarcely any other statute, which hath received such a largeness of interpretation.

Observations of
learned men on
the subject.

And that I may proceed with clearness in a matter so essential to the office of a justice of the peace, I will set down the several expositions which have been given of this statute from time to time by learned men, and then raise such observations thereupon, as the subject will naturally suggest.

The first unfolding of the sense of this statute which has occurred was in the case of Sir *Richard Croftes* and Sir *Richard Corbet*, in the second year of the reign of king *Hen. 7.*, wherein it was resolved by all the judges for that purpose assembled, that he who is bound to the good behaviour ought not to do any thing which shall be cause of breach of the peace, or to put the people in fear, dread, or trouble; and so shall be intended of all things which concern the peace;

But not in misdoing of other things, which touch not the peace. Yet a diversity was observed, between a breach of the peace and a breach of the good behaviour, for the peace is not broken without an affray or battery, but the good behaviour may be forfeited by the number of people a man has, and by their harness, or weapons, and the like, although they break not the peace. 2 H. 7. 2.

The second instance, and upon which much stress hath been laid, was in the 13th year of the same king. In trespass of assault, battery, and imprisonment at D. the defendant saith that one *Alice B.* had a house in the same town, and kept there suspicious people, to wit, of common bawdry, and that the plaintiff oftentimes resorted to the same house suspiciously with women of bad fame and name, whereby the constable of the same town required the defendant to aid him to arrest the plaintiff, to find surety of his good behaviour; whereby the defendant came with the said constable at the hour of 12 in the night, and him found suspiciously in the same place; whereupon he took him, and put him in ward; and it was holden by all the justices to be a good justification; for they said, that it was lawful for every constable to take suspected persons, which wake in the night and sleep in the day, or that keep suspicious company. 13 H. 7. 10.

In the next place, Sir *Anthony Fitzherbert*, who lived in the reign of K. Hen. 8., saith, that it seemeth that one justice may, by the commission, issue a warrant against a person to find surety of the good behaviour, by his discretion as well as two justices may; and the words of the statute of the 34 Ed. 3. are to the same effect; otherwise, he says, damage may happen to some of the king's subjects, if the party be not attached, before that two justices have made the precept; yet (he says) the common usage is, to make such precept of the good behaviour in the name of two justices, and it is good to observe this direction. Fitz. 7. Crom. 122.

In the next place it is proper to take notice of a case adjudged in the court of king's bench, in the 30th of Q. Eliz. reported by L. Coke, 4 Inst. 181. which was thus; at the sessions at *Bridgewater* in the county of *Somerset*, one *William King* with sureties was bound by recognizance to appear at the next general sessions of the peace in the same county, and in the mean time to be of the good behaviour towards the queen and all her people. And after, at the next sessions, *William King* appeared, and was indicted for slanderous words spoken since his binding, to wit, for saying at one time to *Edward Kyrton*, esquire, *Thou art a peller, thou art a liar, and hast told my lord lies.* And he was further indicted, that since the said recognizance, *the close of one John Wick with force*
and

Surety for the good behaviour. [S. I.]

and arms he broke and entered, and the cattle of the said John depasturing in the said close unlawfully vexed and chased. And afterwards at another time, he said to the said *Kyrton*, *thou art a drunken knave*. Which indictment was removed into the king's bench. And hereupon it was debated divers times, both at the bar and the bench, whether admitting all that is contained in the indictment to be true any thing therein was, in judgment of law, a breach of the said recognizance. And it was resolved, that neither any of the words, nor the trespasss, were any breach of the good behaviour, for that none of them did tend immediately to the breach of the peace; for though the said words, *thou art a liar, thou art a drunken knave*, are provocations, yet they tend not immediately to the breach of the peace; as if *William King* had challenged *Kyrton* to fight with him, or had threatened to beat or wound him, or the like; these tend immediately to the breach of the peace, and are therefore breaches of the recognizance of the good behaviour. And this diversity (lord *Coke* says) was justly collected upon the coherence and context of the statute of the 34 *Ed.* 3., whereby justices are assigned for keeping of the peace, and to restrain the offenders, rioters, and all other barators, as to chastise them according to their trespasss and offence; and to inquire of pillors and robbers in the parts beyond the seas, and be now come again, and go wandering and will not labour; and thus much for the punishment of offences against the peace after they be done. Then followeth an express authority given to justices, for prevention of such offences before they be done, namely, *and take off all them that be not of good fame* (that is, that be defamed and justly suspected that they intend to break the peace,) *where they shall be found, sufficient surety and mainprize of their good behaviour towards the king and his people* (which must concern the king's peace, as is also provided by the words subsequent), *to the intent that the people be not by such rioters troubled or endamaged, nor the peace blemished, nor merchants nor others passing by the highways disturbed, nor put in the peril that may happen of such offenders*. And as for the trespasss; although every wrongful trespass is by force and arms, and against the peace, yet these are not taken to be such as shall make a breach of the good behaviour.

After this, Mr. *Lambard*, who wrote towards the beginning of the reign of K. *James* the first, saith thus; Surety of the good abearing is of great affinity with that of the peace; as being provided for preservation of the peace, as that other is; for in the commission of the peace they are both conveyed under one tract of speech, against such as threaten to hurt men's bodies, or fire their houses; which things

things (he says) are now commonly prevented by surety of the peace only.

And in the 2 H. 7. 2. (above recited) the surety of the good abearing is set forth to rest in this point chiefly, that a man do nothing that may be cause of a breach of the peace; and that it doth not consist in the observation of things that concern not the peace; and that it should differ from surety of the peace in this, that where the peace is not broken without an affray, or battery, or such like, this surety may be broken by the number of a man's company, or by his or their weapons or harness.

And herewithal (he says) do also agree certain precedents in the king's bench.

But all this notwithstanding, he thinks that a man may reasonably affirm, that the surety of good abearing should not be restrained to so narrow bounds.

In proof of which, he proceeds to comment on the above-mentioned statute of the 34 Ed. 3. enabling the keepers of the peace to take of them all that be not of good fame, where they shall be found, sufficient surety and mainprize of their good abearing towards the king and his people; so that if a man be defamed, he may by virtue hereof be bound to his good behaviour at the discretion of the justices. Now the doubt resteth in this; to understand concerning what matters this defamation must be: and this (he thinks) may be partly gathered out of the said statute; for after it hath first given power to the wardens of the peace to arrest and chastise offenders (that is to say, against the peace, rioters, and barators), then it willeth them to enquire of such as having been robbers beyond the sea were come over hither, and would not labour as they were wont; and lastly, it authorizeh them to take surety of the good behaviour of such as be defamed, namely, for any of those former offences; for so it standeth well together that they should both punish such as have already so offended, and shall also provide that others shall not likewise offend.

But he says, the further this bond of the good abearing doth extend, the more regard there ought to be taken in the awarding of it; and therefore (says he) although the justices have power to grant it, either by their own discretion or upon the complaint of others, even as they may that of the peace, yet I wish rather that they do not command it but only upon sufficient cause seen to themselves, or upon the complaint of other very honest and credible persons.

And then being about to set forth the form of a warrant, and of a recognizance for the good behaviour, he says,—
And, here soasmuch as one justice alone, and out of sessions, may both by the first clause of the commission, and also by the opinion of Fitzherbert, grant this surety of the good abearing

ing (although the common practice be, that two such justices do join in that doing, whereof also *Fitzherbert* hath very good liking,) I will not stick to set forth the common forms as well of the precept as of the recognizance for the same, wherein if I shall use the names of two justices, you must take that to be done according to the common fashion, and not of any necessity in law. For as I would more gladly use the assistance of a fellow justice in this behalf, if I may conveniently have it, so if that may not be gotten, I would not greatly fear, when good cause shall require, to undertake the thing myself alone.

And besides this he says, you may see admitted by the opinion of the court 13 H. 7. that if a man in the night season haunt a house that is suspected for bawdry, or use suspicious company, then may the constable arrest him to find surety for his good abearing; for bawdry is not merely a spiritual offence, but mixed and founding somewhat against the peace of the land.

And therefore (says he) it shall not be amiss at this day, in my slender opinion, to grant surety of the good abearing against him that is suspected to have begotten a bastard child, to the end that he may be forthcoming when it shall be born; for otherwise there will be no putative father found, when the justices shall after the birth come to take order for his punishment. *Lamb. 115—119.*

In the next place, Mr. *Pulton*, who lived about the same time with Mr. *Lambard*, writeth thus. The surety of the good abearing is ordained for the preservation of the peace, and it doth differ in nothing from that of the peace, but that there is more difficulty in the performance of it, and the party bound may sooner slide into the peril and danger of it. The surety of good abearing is most commonly granted in open sessions, or by two or three justices; or, upon a *supplicavit*, and great cause shewn and proved, it is granted in the chancery or king's bench. And though one justice alone may grant it if he will, yet it is seldom done so, unless it be to prevent some great sudden and imminent enormity or danger. The surety of the peace is most times taken at the request of one for the preservation of the peace chiefly against one. But the surety for the good abearing is oftentimes granted at the suit of divers, and those must be men of credit, and to provide for the safety of many; for the effect and purport thereof is that the party bound shall demean himself well in his port, behaviour, and company, and do nothing that may be the cause of breach of the peace, or in putting the people in fear or trouble; and it is chiefly granted against common barators, common rioters, common quarrellers, common peace breakers; and persons greatly defamed for resorting to houses

(9) Maintainers of houses commonly suspected to be houses of common bawdry.

(10) Common whoremongers and common whores; for bawdry is an offence temporal as well as spiritual, and is against the peace of the land.

(11) Night-walkers and eves droppers.

(12) Suspected persons who live idly, and yet fare well, or are well apparelled, having nothing whereon to live; unless upon examination they shall give a good account of such their living.

(13) Common gamesters, especially if they have not whereon to live.

(14) Such as raise hue and cry without cause.

(15) Libellers.

(16) Putative father of a bastard child.

(17) Such as persuade or procure the putative father to run away, or the mother to be conveyed away, whereby she leaveth her child to the charge of the town.

(18) Such as abuse a justice's warrant, or shall abuse him or the constable in executing their office. Nay, it seemeth (he says,) that he who shall use words of contempt, or contrary to good manners, against a justice of the peace, though it be not at such a time as he is executing his office, yet he shall be bound to his good behaviour.

(19) Such as charge another before a justice with felony, riot, or forcible entry, and yet will not prosecute or give evidence.

(20) In general, whatsoever act or thing is of itself a misbehaviour, is cause sufficient to bind such an offender to the good behaviour. *Dalt. c. 124.*

To which others have added other instances; as,

(21) Forcible entry. *1 Haw. 124.*

(22) Mr. *Hawkins* says, that he hath heard it agreed in the court of king's bench, that a writing full of obscene ribaldry, without any kind of reflection upon any one, is not punishable at all by any prosecution at common law; yet it seems, he says, that the author may be bound to his good behaviour, as a scandalous person of evil fame. *1 Haw. c. 70. f. 9.*

(23) A man did beat a woman in *Westminster-hall*, and he was bound to the good behaviour; and so (says Mr. *Crompton*) he may be bound to the peace and good behaviour, where he striketh a person in the presence of the justices in sessions. *Crom. 124.*

(24) A man was bound to the good behaviour by the court of king's bench for assaulting and threatening a person so that he could not attend the court in suit there, without great cost. And so it seemeth that it may be done where
one

one cometh to the sessions about a traverse to be tried there, or to prefer a bill of indictment, if he be assaulted or threatened. *Crom.* 125.

Observations by
the author.

I have omitted to make any remarks in the progress of these authorities, being willing to exhibit them together in one view; I proceed now to take notice of such observations as do occur upon the whole.

First, It appears from hence, that the universal practice of one justice binding to the good behaviour is but of a modern date; although the law for it is the same now that it was near 400 years ago; and that it was a long time doubted whether one justice alone could require sureties of the good behaviour. But here a distinction ought to be made between the power given by the commission of the peace and the power given by the above-mentioned statute: As to the commission, there seemeth to be no foundation for any doubt, but that thereby one justice alone may require such sureties; for the words are express, *we have assigned you, jointly and severally, and every one of you*: but then that extends only to two instances, namely, to *the threatening of a person concerning his body, or the firing of his house*. As to the statute, the doubt seems to have arisen upon this; in that having appointed who shall be assigned for justices, it then directeth that *they shall have power to restrain offenders*; and it is holden, Mr. Lambard hath observed, that if no power be expressly given by any statute to any one justice alone, he cannot otherwise compel the observation thereof, than by the help of his fellow justices. And Mr. Hawkins speaking hereof in the case of riots says, that if one justice alone, proceeding upon this statute, shall arrest *an innocent person* as a rioter, it seemeth that he is liable to an action of trespass, and that the party arrested may justify the rescuing of himself; because no one single justice is by this statute made a judge of the said offence: Yet, nevertheless, he says, by a favourable construction which this statute hath received for the advancement of justice, it hath been resolved, that any one justice upon this statute, *if he find the persons riotously assembled*, may, without staying for his companions, arrest the offenders, and bind them to their good behaviour.

Secondly, It seemeth from what hath been rehearsed that the words *not of good fame* were generally understood for a long time, to refer to such offences only as have a relation to the peace, and not to other things which concern not the peace.

Thirdly, That one great inlet to the larger and at length almost unlimited interpretation of the words, was the case above-mentioned 13 H. 7., wherein it was adjudged to be lawful to arrest a man for the good behaviour, for frequent-

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ing a suspected bawdy house, with women of bad fame. And this is the reason which Mr. *Dalton* gives for many of his instances above specified, namely, that they are more properly against the peace, than this same case of avowry.

Fourthly, That when once the gap was opened for the admission of other offences not immediately relating to the peace, they flowed in and multiplied. Thus, in the case of bastardy, having some affinity with the other of frequenting bawdy houses, Mr. *Lambard* thought that with equal reason the reputed father of a bastard child might be bound to the good behaviour; and in a few years after Mr. *Dalton* delivers it absolutely, that he may be so bound.

Fifthly, That therefore the natural and received sense of any statute ought not to be departed from without extreme necessity; for that one concession will make way for another, and the latter will plead for the same right of admission as the former.

Sixthly, That notwithstanding the aforesaid instances given by Mr. *Dalton* and others, it may not be safe in all cases to rely upon every one of them without distinction; not only because it is almost impossible for any two cases to be exactly alike in all their circumstances, but also because in fact divers of them at different times have been adjudged otherwise, and others have not prevailed without much difficulty and contradiction in the courts above, and perhaps were at length admitted rather from the conveniency and reasonableness of the thing itself, and from an indulgence usually allowed to those gentlemen who serve their country without gain, and oftentimes with much trouble, than from any clear positive and express power given to them by the commission, or by the said statute.

Seventhly, That notwithstanding all which hath been said, perhaps the case before recited, concerning the frequenting of a suspected bawdy house, will not support the weight which so many authors have laid upon it. For the question, whether a justice of the peace had cognizance of the offence by virtue of the commission of the peace, or of the statute of the 34 *Ed. 3.* was no part of the dispute; for it was an arrest by the constable *ex officio*, as a conservator of the peace at common law, and without any warrant from a magistrate: And the question was not, whether the constable might require sureties for the good behaviour, as a thing different from sureties for the peace, but whether in that case he could arrest at all or not.

And if the authority of this case shall be abated, several of the above-mentioned instances will abate in proportion.

Eighthly, It is to be observed that others of the above-said instances were established upon matters originally de-

terminated in the court of king's bench, and Mr. *Crompton* himself refers to the authority and practice of that court in several instances. *Crom.* 120. But it doth by no means follow, from what the justices of the court of king's bench may do, that the justices of the peace may do the like; for their authority is circumscribed and limited by their commission and the statute law.

Ninthly, That it will perhaps abate some other of the foregoing instances, if we attend to this consideration; that there is a great difference between what the justices in sessions may do, after a conviction by a jury, for an offence committed, and what a single justice out of the sessions may do, before an offence is committed, and to prevent the same from being committed; or what a single justice may do, upon a summary conviction before him, for an offence, as directed by some special act of parliament. The truth is, binding to the good behaviour was a discretionary judgment at the common law, given by a court of record for an offence at the suit of the king, after a common law conviction by verdict of twelve men. Trial by his peers is the *Englishman's* birth-right by the great charter, and cannot be taken away but by an authority equal to that which established it, that is, by act of parliament; and therefore where an act gives a summary conviction before a justice of the peace, and inflicts a punishment upon such conviction; such statute must be pursued both as to the conviction and punishment. And it seemeth incongruous, that a justice of the peace shall have power to bind a man to the good behaviour, for an offence which he himself hath no power to hear and determine; for that is, in effect, giving judgment, and awarding execution, when it doth not and cannot legally appear to him that the person is guilty.

Great caution
recommend.d.

Tenthly, That therefore upon the whole it may be proper to conclude, that the magistrate in this article of the good behaviour cannot exercise too much caution and good advisement; that in matters which the law hath left indefinite it is better to fall short of than to exceed his commission and authority; that to bind a man to the good behaviour upon the statute for *evil fame* in general may not always be with safety; not only because upon an action brought it may be hard to prove such evil fame, but also because in fact it is not always true, for many a good man hath been evil spoken of; that although in some cases a justice of the peace may have a discretionary power (as Mr. *Hawkins* expresseth it) yet he must remember withal that it is a *legal* discretion, as Mr. *Barlow* terms it, in which in favour of liberty great tenderness is to be used; or, as lord *Coke* hath defined it, discretion is a knowlege or understanding to discern between truth and falsehood,

falsehood, between right and wrong, between shadows and substance, between equity and colourable glosses and pretences, and not to do according to our wills and private affections; and such discretion ought to be limited and bounded with the rules of reason, law, and justice. 5 Co. 100. 10 Co. 140.

II. For what it shall be forfeited.

This hath been handled in part as it fell in with the former section; and agreeably to the doctrine there laid down, Mr. Dalton says that he who is bound to the good behaviour ought to demean himself well in his carriage, and in his company, not doing any thing which shall be a cause of breach of the peace, or to put the people in fear, dread, or trouble; and so shall be intended of all things which concern the peace, but not in misdoing of other things which touch not the peace. *Dalt. c. 122.*

And Mr. Hawkins saith, it hath been laid down as a general rule, that whatever will be a good cause to bind a man to his good behaviour will forfeit a recognizance for it; but this hath since been denied, and indeed seems by no means to be maintainable, because the statute in ordering persons of evil fame to be bound in this manner seems in many places chiefly to regard the prevention of that mischief which they may justly be suspected to be likely to do; and in that respect requires them to secure the public from that danger which may probably be apprehended from their future behaviour, whether any actual crime can be proved upon them or not; and it would be extremely hard in such cases to make persons forfeit their recognizances, who yet may justly be compellable to give one, as those who keep suspicious company, or those who spend much money idly, without having any visible means of getting it honestly, or those who lie under a general suspicion of being rogues, and the like. 1 *Haw. c. 61. s. 5.*

However it seems that such a recognizance shall not only be forfeited for such actual breaches of the peace for which a recognizance for the peace may be forfeited, but also for some others, for which such a recognizance cannot be forfeited; as for going armed with great numbers to the terror of the people, or speaking words tending to sedition; and also for all such actual misbehaviours which are intended to be prevented by such a recognizance, but not for barely giving cause of suspicion of what perhaps may never actually happen. *Id. s. 6.*

Surety for the good behaviour. [S. II.]

Warrant for the peace, or good behaviour in the king's majesty's name.

Westmorland. **G**EORGE the third, by the grace of God, of the united kingdom of Great Britain and Ireland, king, defender of the faith. To our sheriff of our county of Westmorland, to the constable of the hundred of _____ in the said county, to the petty constables of the town of _____ in the said county, and to all and singular our bailiffs and other ministers in the said county, as well within liberties as without, greeting.

Forasmuch as A. I. of _____ in the said county, yeoman, hath personally come before Sir Michael le Fleming, baronet, one of our justices assigned to keep the peace within the said county, and hath taken a corporal oath, that he the said A. I. is afraid that A. O. of _____ in the said county, yeoman, will beat [wound, maim, or kill] him the said A. I. and hath therewithal prayed surety of the peace against him the said A. O. [Or, it for the good behaviour, _____ hath taken a corporal oath, that A. O. of _____ in the said county, yeoman, hath threatened to beat him the said A. I. or, to burn the house of him the said A. I. and hath therewithal prayed surety of the good behaviour against him the said A. O.] Therefore we command and charge you jointly and severally that immediately upon the receipt hereof you bring him the said A. O. before the said Sir Michael le Fleming to find sufficient surety and mainprize, as well for his personal appearance at the next general quarter sessions of our peace, to be holden at Appleby or elsewhere in and for the said county, as also for our peace in the mean time to be kept towards us and all our liege people, and chiefly towards the said A. I., that is to say, that he the said A. O. shall not do, nor by any means procure or cause to be done any of the said evils to any of our said people, and especially to the said A. I. [Or, if for the good behaviour, _____ as also for his good behaviour, in the mean time, towards us and all our liege people, especially towards him the said A. I.] Witness the said Sir Michael le Fleming at Rydal in the said county, the _____ day of _____ in the _____ year of our reign.

Warrant for the peace or good behaviour, in the name of the justice himself.

Westmorland. **T**Homas Holme, esquire, one of the justices of our lord the king assigned to keep the peace within the said county, To the sheriff of the said county, to the high constable of _____ in the said county, to the petty constable of _____ in the said county, and to all other the ministers and officers of our said lord the king, within the said county, and to every of them, greeting.

Forasmuch

Forasmuch as A. I. of ——— in the said county, yeoman, hath personally come before me, and hath taken a corporal oath that he the said A. I. is afraid that A. O. of ——— in the said county, yeoman, will beat him (wound, maim, kill, or do to him some bodily hurt,) and hath therefore prayed surety of the peace against him the said A. O. [Or, if for the good behaviour, That A. O. of ——— in the said county, yeoman, hath threatened to do some bodily hurt to him the said A. I. or, to burn the house of him the said A. I., and hath therefore prayed surety for the good behaviour against him the said A. O.] These are therefore on the behalf and in the name of our said lord the king to command you jointly and severally, that immediately upon the receipt hereof you bring the said A. O. before me, to find surety as well for his personal appearance at the next general quarter sessions of the peace to be holden at Kirkby in Kendale in and for the said county, as also for his keeping the peace, [or, for his being of the good behaviour] in the mean time towards the king and all his liege people, and chiefly towards the said A. I. Given under my seal at Kirkby in Kendale in the said county, the ——— day of ——— in the ——— year of the reign of our said lord George the third, of the united kingdom of Great Britain and Ireland, king, defender of the faith.

Or the warrant may be directed to any of these officers above-named, particularly, or to any other indifferent person or persons, as followeth;

Another warrant for the peace, or good behaviour.

Westmorland. { To the constables of the town of ———
in the said county, and to either of them.

FORASMUCH as A. I. the wife of B. I. of your said town, labourer, hath required sureties of the peace [or, of the good behaviour] before me John Burn, esquire, one of the justices of our lord the king assigned to keep the peace within the said county, against A. O. of your said town, butcher, and withal hath taken her corporal oath before me that she requireth the same not for any private malice hatred or evil will, but simply that she is afraid that he the said A. O. will do to her some bodily mischief [or as the case shall be: And if it be for the good behaviour, then add—and that he the said A. O. hath threatened to do some bodily mischief to her the said A. I.] These are therefore in the name of the said lord the king to charge and command you, that immediately upon sight hereof you or one of you do bring the said A. O. before me to find sufficient sureties, as well for his personal appearance at the next general quarter sessions of the peace to be holden in and for the said county, as also that he the said A. O. shall in the mean time keep the peace, [or,

Surety for the good behaviour. [s. II.]

be of the good behaviour] as well towards our said lord the king, as towards all his liege people, and especially towards the said A. I. Dated at Orton in the said county, the — day of — in the — year of the reign of our said lord George the third, of the united kingdom of Great Britain and Ireland, king, defender of the faith.

Another warrant for the peace, or good behaviour
Westmorland. { To the constable of — in the said
county.

FORASMUCH as A. I. of — aforesaid, in the county aforesaid, yeoman, hath personally come before me John Robinson, esquire, one of the justices of our lord the king assigned to keep the peace within the said county, and hath taken his corporal oath that A. O. of — aforesaid, in the county aforesaid, yeoman, hath assaulted, beaten, and wounded him the said A. I. and further hath threatened him concerning his body, inasmuch that he the said A. I. is afraid that the said A. O. will beat, wound, maim, or kill him the said A. I. or do to him some other bodily harm; and thereupon he the said A. I. hath prayed security of the peace [or, of the good behaviour] to be had or granted to him against the said A. O.; these are therefore to require you in the name of our said lord the king, immediately upon the sight hereof, to bring the said A. O. before me, to find sufficient sureties for his personal appearance at the next general quarter sessions of the peace, to be holden in and for the said county, then and there to answer the premises, and in the mean time that he the said A. O. keep the peace, [or, shall be of the good behaviour,] towards our said lord the king, and all his liege people, and especially towards the said A. I. Given under my hand and seal at Flodder, in the said county, the — day — of — in the — year of the reign of our said lord George the third, of the united kingdom of Great Britain, and Ireland, king, &c.

Note; the warrants above set forth, so far as they concern the good behaviour, are framed upon the clause in the commission, empowering one justice to bind to the good behaviour certain offenders therein mentioned. The following warrant for the good behaviour simply, as contradistinguished from the peace, is formed on the statute of the 34 Ed. 3. so often above mentioned.

Warrant for the good behaviour; on the 34 Ed. 3.
c. 1. from Lambard and Dalton.

Westmorland, JOHN Thompson, esquire, and Thomas Lamb, esquire, justices of our lord the king, assigned to keep the peace within the said county, To the sheriff of the said county, to the constable of the hundred of — in the said county, to the petty constables of the town of — in the said

said county, and to all and singular the bailiffs, constables, and other officers of our said lord the king, as well within liberties as without in the same county, greeting.

Forasmuch as we are given to understand by the information testimony and complaint of many credible persons that A. O. of ——— in the county aforesaid, gentleman, and B. O. of the same, yeoman, are not of good name and fame, nor of honest conversation, but evil doers, rioters, barators, and disturbers of the peace of our said lord the king, so that murder, homicide, strifes, discords, and other grievances and damages amongst the lieges of our said lord the king concerning their bodies are likely to arise thereby; therefore on the behalf of our said lord the king we command you and every of you that you omit not by reason of any liberty within the county aforesaid, but that you attach or one of you do attach the aforesaid A. O. and B. O. so that you have them before us or others our fellow justices of our said lord the king, assigned to keep the peace within the county aforesaid, as soon as they can be taken [or, before the justices of our said lord the king, assigned to keep the peace within the county aforesaid, and also to hear and determine divers felonies, trespasses and other misdemeanors in the said county committed, at the next general quarter sessions of the peace to be holden in and for the said county] to find them before us [or, the said justices] sufficient surety and mainprize for their good behaviour towards our said lord the king and all his people, according to the form of the statute in such case made and provided. And this you shall in no wise omit on the peril that shall ensue thereon. And have you before us [or, before the said justices, at the sessions aforesaid] this precept. Given under our seals at Brough in the county aforesaid, the ——— day of ——— in the ——— year of the reign of our said lord ———

Recognizance for the peace or good behaviour.

Westmorland. **B**E it remembered, that on the ——— day of ——— in the ——— year of the reign of our lord George the third, of the united kingdom of Great Britain and Ireland, king, defender of the faith, A. O. of ——— in the county aforesaid, yeoman, A. S. of the same place, yeoman, and B. S. of the same place, yeoman, came before me Henry Chaytor, doctor of laws, one of the justices of our said lord the king, assigned to keep the peace within the said county, and acknowledged themselves to owe to our said lord the king, to wit, the said A. O. the sum of 20l. and the said A. S. the sum of 10l. and the said B. S. the sum of 10l. of good and lawful money of Great Britain, to be respectively made and levied of their several goods and chattels, lands, and tenements, to the use of our said lord the

Surety for the good behaviour. [S. II.]

king, his heirs, and successors, if he the said A. O. shall fail in performing the condition indorsed [or underwritten].

Acknowledged before me,

Henry Chaytor.

The condition of this recognizance is such, that if the within bounden [or, above bounden] A. O. shall personally appear at the next general quarter sessions of the peace to be holden in and for the county aforesaid, to do and receive what shall then and there be enjoined him by the court, and in the mean time shall keep the peace [or, be of the good behaviour; or, shall keep the peace and be of the good behaviour] towards the king and all his liege people, and especially towards A. I. of ——— in the said county, yeoman: Then the said recognizance shall be void, or else remain in its force.

Mittimus for want of sureties.

Westmorland. { To the constable of ——— and to the
keeper of ——— in the said county.

WHEREAS A. O. of ——— in the said county, yeoman, is now brought before me John Shaw, esquire, one of the justices of our lord the king, assigned to keep the peace in and for the said county, requiring him to find sufficient sureties to be bound with him in a recognizance for his personal appearance at the next general quarter sessions of the peace to be holden in and for the said county, and in the mean time to keep the peace [or, be of the good behaviour] towards our said lord the king and all his liege people, and especially towards A. I. of ——— in the said county, yeoman; and whereas he the said A. O. hath refused and doth now refuse before me to find such sureties; these are therefore in the name of our said lord the king to command you the said constable forthwith to convey the said A. O. to the common gaol of our said lord the king, [or, to the house of correction] at ——— in the said county, and to deliver him to the keeper thereof there, together with this precept; and I do, in the name of our said lord the king, hereby command you the said keeper to receive the said A. O. into your custody in the said gaol [or, house of correction] and him there safely to keep, until he shall find such sureties as aforesaid. Given under my hand and seal, at Kirkby in Kendale in the said county, the ——— day of ——— in the ——— year of the reign of our said lord George the third, of the united kingdom of Great Britain and Ireland, king, &c.

The form of a supersedeas.

Westmorland. John Robinson, esquire, one of the justices of our lord the king, assigned to keep the peace within the county aforesaid, to the sheriff, bailiff, constables, and others the faithful ministers and subjects of our said lord the king, within the said county, and to every of them, greeting:

Forasmuch

Forasmuch as A. O. of ——— in the said county, yeoman, hath personally come before me at Appleby in the said county, and hath found sufficient surety, that is to say, A. S. of ——— yeoman and B. S. of ——— yeoman, either of the which hath undertaken for the said A. O. under the pain of 20l., and he the said A. O. hath undertaken for himself under the pain of 40l. that he the said A. O. shall personally appear at the next general quarter sessions of the peace to be holden in and for the said county, then and there to do and receive what shall be enjoined him by the said court, and in the mean time shall well and truly keep the peace [or, be of the good behaviour] towards our said lord the king, and all his liege people, and especially towards A. I. of ——— yeoman; therefore on behalf of our said lord the king, I do command you and every of you that you utterly forbear and surcease to arrest take imprison or otherwise by any means for the said cause to molest the said A. O. and if you have, for the said occasion and for none other taken and imprisoned him the said A. O. that then him you deliver or cause to be delivered and set at liberty, without further delay. Given at Appleby aforesaid, in the county aforesaid, under my seal, this ——— day of ——— in the ——— year of the reign of ———.

This *superfedeas* may be also in the name of the king under the teste of the justice, thus;

GEORGE the third, by the grace of God, &c. To the sheriff, &c. greeting; *Forasmuch as A. O. hath come before William Lowther, clerk, one of our justices assigned to keep the peace within our said county, and hath found, &c. We therefore command you, and every of you, that ye forbear, &c. Witness the said William Lowther, at Lowther, in the county aforesaid, the ——— day of ——— in the ——— year of our reign.*

Release of the surety for the peace or good behaviour.

Westmorland. **B**E it remembered that on the ——— day of ——— in the ——— year of ——— the aforesaid A. I. hath come before the said Giles Moore, clerk, and freely remised and released, as much as in him lieth, the aforesaid security of the peace [or, of the good behaviour] by him prayed before me against the above named A. O. In witness whereof, I the said Giles Moore, at Winandermere, in the county aforesaid, have hereunto set my seal. Given, &c.

This is to be written under the recognizance; and if the justice only sign without sealing it, it is well enough, especially where the recognizance is without seal.

Or

Or the release may be by itself thus :

Westmorland. **B**E it remembered, that A. I. of ——— in the said county, yeoman, on the ——— day of ——— in the ——— year of the reign of ——— came before me William Tatham, esquire, one of the justices of our lord the king, assigned to keep the peace within the said county, at Askam, in the said county, and there remised and freely released to A. O. of ——— in the said county, yeoman, the surety of the peace [or, good behaviour] by him the said A. I. before me prayed against the said A. O. Given, &c.

Or, if it is before another justice, then say, ——— the surety of the peace [or, good behaviour] which he has against A. O. of ——— in the said county, yeoman. Given, &c.

But note, that none of these releases will discharge the recognizance, or the appearance of the party bound thereby; but that he must appear according to the condition of the recognizance, for the safeguard of his recognizance.

Liberate to discharge one committed for want of sureties.

Westmorland. **J**oseph Deane, esquire, one of the justices of our lord the king assigned to keep the peace in the county aforesaid, to the keeper of his majesty's gaol at ——— in the said county greeting.

Forasmuch as A. O. in the prison of our said lord the king, in your custody now being, at the suit of A. I. of ——— in the said county, yeoman; for the want of his finding sufficient sureties for his personal appearance at the next general quarter sessions of the peace, to be holden in and for the said county, and for his keeping the peace [or, being of the good behaviour] in the mean time towards our said lord the king, and all his liege people, and especially towards the said A. I. hath found before me sufficient sureties, to wit, A. S. of ——— yeoman, and B. S. of ——— yeoman, either of which hath undertaken for the said A. O. under the pain of 20l., and he the said A. O. hath undertaken for himself under the pain of 40l. that he the said A. O. shall and will personally appear at the next general quarter sessions of the peace to be holden in and for the said county, and shall well and truly keep the peace [or, be of the good behaviour] in the mean time towards our said lord the king, and all his liege people, and especially towards the said A. I.; Therefore on the behalf of our said lord the king, I do command you that if the said A. O. do remain in the said gaol for the said cause, and for none other, then you forbear to grieve or detain him any longer; but that you deliver him thence, and suffer him to go at large, and that upon the pain that will fall thereon. Given under my seal at Appleby in the said

said county, the ——— day of ——— in the ——— year of the reign of our said lord George the third, of the united kingdom of Great Britain and Ireland, king, &c.

Surgeons. See Physicians.

Swans. See Game.

Swearing.

[19 G. 2. c. 21.—22 G. 2. c. 33.]

BY the canons of the church, if any offend their brethren by swearing, the churchwardens shall present them; and such notorious offenders shall not be admitted to the holy communion, till they be reformed. *Can. 109.*

Punishment in the spiritual court.

And by the statute of the 19 G. 2. c. 21. it is enacted as follows;

If any person shall profanely curse or swear and be thereof convicted on confession or oath of one witness, before one justice (or mayor), he shall forfeit as follows; that is to say,

Pecuniary penalty.

Every day labourer, common soldier or common seaman, 1 s.

Every other person under the degree of a gentleman, 2 s.

And every person of or above the degree of a gentleman, 5 s.

And for a second offence after conviction, double; and for every other offence after a second conviction, treble. *f. 1.*

Which said penalties shall go to the poor of the parish where the offence was committed. *f. 10.*

If such person shall curse or swear in the presence and hearing of a justice (or mayor) he shall convict him without other proof. *f. 2.*

Swearing in presence of a justice.

If in the presence and hearing of a constable, if he is *unknown* to such constable, the said constable shall seize and carry him forthwith before the *next* justice (or mayor of a town corporate), who shall convict him upon the oath of such constable.

In presence of a constable.

If he is *known* to such constable, he shall speedily make information before some justice (or mayor), in order that he may be convicted. *f. 3.*

So that the constable, if it is in his hearing, is required to prosecute; but any other person also may prosecute if he pleases.

In presence of any other.

And such justice (or mayor) shall immediately on such information on the oath of any constable or of any other person,

Commitment on not paying the penalty.

son, cause the offender to appear before him, and on proof of such information convict him; and if he shall not immediately pay down the penalty or give security to the satisfaction of such justice (or mayor) he may commit him to the house of correction, to be kept to hard labour for ten days.

f. 4.

On not paying
the charges.

Also the charges of the information and conviction shall be paid by the offender, if able, over and above the penalties; which charges shall be ascertained by such justice (or mayor).

f. 10.

But for the information, summons and conviction, no more shall be paid to the justice's clerk than 1s. f. 14.

And if he shall not immediately pay such charges or give security to the satisfaction of such justice (or mayor), he may commit him to the house of correction to be kept to hard labour for six days, over and above such time for which he may be committed for non-payment of the penalties; and in such case, no charges of information and conviction shall be paid by any person. f. 10.

Soldier or
seaman.

But if such soldier or seaman shall not so pay or secure the penalty and also the costs of the information, summons and conviction, he shall instead of being committed to the house of correction, be ordered to be publicly set in the stocks for one hour for every single offence, and for any number of offences, whereof he shall be convicted at one and the same time in two hours. f. 5.

Form of the
conviction.

The conviction shall be in the words and form following:

Be it remembered that on the ——— day of ——— in the ——— year of his majesty's reign, A. B. was convicted before me (one of his majesty's justices of the peace for the county, riding, division or liberty aforesaid; or before me ——— mayor of the city or town of ——— within the county of ———) of swearing one or more profane oath or oaths or of cursing one or more profane curse or curses. Given under my hand and seal the day and year aforesaid. f. 8.

Certiorari.

Which conviction shall not be removed by certiorari. *Id.*

Conviction to be
filed.

And the justice (or mayor) shall cause the conviction to be fairly written upon parchment and returned to the next general or quarter sessions, to be filed by the clerk of the peace and kept amongst the records. *Id.*

Penalty on a
justice omitting
his duty.

If any justice (or mayor) shall omit his duty in the execution of this act, he shall forfeit 5 l.; half to the poor where he shall reside and half to him that shall sue in any court of record. f. 6.

Penalty on the
constable.

Constable omitting his duty shall on conviction, on oath of one witness, before one justice (or mayor), forfeit 40 s.; to be levied by distress, half to the informer and half to the poor: and if he have not sufficient goods wherewith to levy, such

such justice (or mayor) may commit him to the house of correction, to be kept to hard labour for one month. *f. 7.*

And this act shall be publicly read four times in the year, in all churches and chapels, by the minister immediately after morning and evening prayer, on the *Sundays* next after *Mar. 25, June 24, Sep. 29, and Dec. 25*; on pain of *5l.* for every offence, to be levied by distress, by warrant of a justice (or mayor). *f. 13.*

Acts to be read in the church.

By no person shall be prosecuted for any offence against this act, unless it be within eight days after the offence committed. *f. 12.*

Limitations of actions.

But the 22 G. 2. c. 33. Persons belonging to his majesty's ships of war, guilty of profane oaths or curses, shall incur such punishment as a court martial shall impose.

Navy.

Information.

Westmorland. **T**HE information of A. I. of ——— in the county aforesaid, yeoman, made on oath this ——— day of ——— in the ——— year of the reign of ——— before me J. P. esquire, one of his Majesty's justices of the peace for the said county, Who saith,

That on ——— the ——— day of ——— now last past, at ——— in the parish of ——— in the county aforesaid, he heard A. O. of ——— in the said county, yeoman, swear one profane oath [or curse one profane curse] in these words, to wit, &c.

Summons.

Westmorland. { To the constable of ———.

WHEREAS information hath this day been made before me J. P. esquire, one of his majesty's justices of the peace for the said county, upon the oath of A. I. of ——— yeoman, that on ——— the ——— day of this present month of ——— he heard A. O. of ——— in the said county, yeoman, at ——— in the parish of ——— in the said county, swear one profane oath [or, curse one profane curse]; These are therefore to command you to cause the said A. O. forthwith to appear before me to answer the premises, and to be further dealt with according to law. Given under my hand and seal at ——— in the said county, the ——— day of ——— in the ——— year of ———.

Swearing.

Commitment.

Westmorland. { To the constable of — in the said county,
and to the keeper of the house of correction at — in the said county.

WHEREAS A. O. of — in the said county, day labourer, is and stands convicted this day before me — one of his majesty's justices of the peace for the said county, of swearing one profane oath, on the — day of this present month of — at — in the parish of — in the said county, whereby he hath forfeited the sum of 1 s. to the poor of the said parish of — and whereas the said A. O. hath refused and doth refuse to pay down the said sum of 1 s. for the use of the poor aforesaid, and also hath refused and doth refuse to give satisfactory security to pay the same; These are therefore to require you the said constable to convey the said A. O. to the house of correction at — aforesaid, and to deliver him to the keeper thereof, together with this warrant. And I do hereby command you the said keeper to receive him the said A. O. into your custody in the said house of correction, and there to detain and keep him to hard labour for the space of ten days. And for so doing this shall be your sufficient warrant. Given under my hand and seal at — in the said county, the — day of — in the — year of the reign of —.

If he also refused to pay the charges, these words may be added—*satisfactory security for the same.* And whereas the said A. O. hath likewise refused and doth refuse to pay the sum of 1 s. which I have settled and ascertained as and for the charges and proceedings against him touching the premises, and hath refused and doth refuse to give satisfactory security to pay the same; these are therefore to require you — for the space of 16 days —.

Sweets. See **Excise**.
Tanners. See **Leather**.

Taxes.

TAXES are certain duties or impositions upon the subject, which are applied in aid of the established government.

The taxes of this country are of various descriptions; all of which may, however, be reduced to the following heads:

Customs. } See those respective titles *ante* vol. 2.
Excise. }
Land-tax. See vol. 3.
Stamps. *Ante* this volume.

The substance of the different acts, relative to the other branches of taxes, it is attempted to comprize under the subsequent heads:

- Seçt. I.** *Of the act for consolidating the provisions respecting the duties under the management of the commissioners for the affairs of taxes* - - - Page 399
- II.** *Of the assessed taxes* - - -
- III.** *Of the tax on property* - - -

I. *Of the act for consolidating the provisions respecting the duties under the management of the commissioners for the affairs of taxes.*

By the 43 G. 3. c. 99. reciting that it is expedient, that certain of the provisions contained in any acts relating to the duties on windows or lights, on inhabited houses, servants, carriages, horses, mules and dogs, and other duties lately transferred to the commissioners for the affairs of taxes, should be consolidated and amended: it is enacted that all the said duties under the management of such commissioners, (except the land tax) shall, from and after April 5, 1804. be assessed, raised, levied, and paid under the regulations thereof. s. 1, 2.

And, as new duties may hereafter be placed under their management, to be assessed in like manner, it is declared that this act shall, with respect to such duties, take effect after the time fixed by the act or acts granting them for the commencement of the same. s. 3.

The provisions or regulations above mentioned it is endeavoured to arrange under the following articles:

- (1.) *Qualifications and powers of commissioners*
- (2.) *Meeting of commissioners; and herein of the appointment of clerks and assessors, and their duties* - - - Page 400
- (3.) *Appointment and duties of collectors* - -
- (4.) *Appointment and duties of inspectors or surveyors; and herein of surcharges and appeals* - - -
- (5.) *Provisions respecting the payment of money in the hands of collectors; and herein, In what cases parishes are answerable for their default, with the proceedings thereon* - - -
- (6.) *Of the payments and accounts of receivers general: and of allowances to them and the Inspectors, &c.* - - -
- (7.) *General*

- (7.) General provisions for enforcing and facilitating the execution of this Act - -
- (8.) Recovery and application of penalties -

(1.) Qualifications and powers of commissioners.

Commissioners not to act unless qualified as commissioners of the land tax.

Qualification of commissioners for the counties in Wales.

Commissioners to take the oath hereby required.

Commissioners not to act before they have taken the oath (A), except in administering the same.

Oaths to be subscribed by the parties, and names to be sent to the tax office.

Commissioners, having taken the oaths, if present, to administer it to others.

Qualification of commissioners in the cities of London, Westminster, the bills of mortality, and parishes of St. Mary-le-Bone and St. Pancras, in Middlesex.

No person shall act as a commissioner, unless he shall be duly qualified as required by 38 G. 3. c. 48. provided that in respect of the cities, liberties, and places herein-after mentioned, the commissioners acting within the same for the duties before mentioned, shall be qualified as hereby directed : But no qualification shall be required for any commissioner acting in any other county in *Wales* than is required for the commissioners acting in the counties of *Wales*, mentioned in the 38 G. 3. c. 48. Nor shall any person act as such commissioner without taking the oaths hereby prescribed, or without being qualified as before mentioned, on pain of forfeiting 200*l.* 43 G. 3. c. 99. s. 4.

And no person shall be capable unless he shall have first taken the oaths appointed by the 1 G. 1. c. 13. s. 5.

Before every such commissioner shall execute his office, except in administering the oath herein-after mentioned to any other commissioners, he shall take the oath (A.), herein annexed, (which oath any one person so appointed a commissioner may administer, although he have not himself previously taken it,) and which oath so taken shall be subscribed by the party taking the same, and the names of all so subscribing shall forthwith be transmitted to the office of the commissioners of taxes at *Somerfet-house*, by the clerks of the commissioners respectively wherever such oaths shall be administered : But where any one or more commissioners, acting for any district, who shall be qualified to act by taking such oaths, shall be present at any meeting of such commissioners in the same district, in such case the said oath shall be administered to any other commissioner in the same district, by him or them who shall have previously taken the same. s. 6.

No person shall be capable of acting as such commissioner within the city of *London*, and liberty of *Saint Martin-le-Grand*, nor within the city and liberty of *Westminster*, nor in or for any other parish or place within the bills of mortality, or the parishes of *Saint Mary-le-Bone* or *Saint Pancras* in the county of *Middlesex*, unless such person shall be possessed of lands, tenements, or personal estate, or of both together, to the amount or value of 500*l.* at least, after payment of all his debts ; which qualification they shall swear to previous to their acting, according to the form following ;

‘ I A. B. do swear [or, affirm, as the case may require], Oath.
 ‘ That truly and bonâ fide I have such an estate consisting of
 ‘ [Specifying the same], of the clear value of 5000*l.* over and
 ‘ above what will satisfy and discharge all my debts.

‘ So help me God.’

Nor unless he shall be an inhabitant of the district for which he shall act as a commissioner, on pain, in case they act without being so qualified or without being an inhabitant of the district for which they shall act, of forfeiting 200*l.* for every offence. Which oath shall be subscribed by the party taking the same, and their names transmitted to the tax office. *f.* 7.

But nothing herein contained shall restrain any commissioner from acting as such in any part of the county, division or place for which they are appointed : And all their warrants and precepts shall be executed by the respective persons to whom the same are directed, in any part thereof.

Commissioners to act for any part of a county for which they are appointed.

f. 34.

By 45 G. 3. c. 5. *f.* 1. It is enacted that these restrictions as to qualification and residence shall not restrain any benchers of any of the inns of court from acting as such commissioner for such inn, of court and the inns belonging thereto ; nor any of the officers who by virtue of their office have heretofore acted under the land tax act, from acting as such commissioners in the liberties of the palaces of *Whitehall* and *St. James's*.

Benchers of inns of court and persons holding certain offices may be commissioners.

By *f.* 2. Persons residing in either of the parishes of *St. Clement Danes*, *St. Mary le Strand*, *St. John the Baptist*, in the liberty of the *Savoy*, parts thereof being situate in the county of *Middlesex*, and other parts in the city and liberty of *Westminster*, being specially named and appointed commissioners for *Middlesex* or for *Westminster*, and being duly qualified as directed by 43 G. 3. c. 99. may act as such for any or all of the divisions or districts within the said parishes or any of them.

Persons residing in certain parishes may be commissioners for *Middlesex* or *Westminster*.

And in case controversy arise between such commissioners, in any thing touching the execution of any act, in which any commissioner shall be interested or concerned in his own right, or in right of any person for whom he shall act as steward, agent, attorney, or solicitor, such commissioner shall have no voice, but shall withdraw during the debate of such controversy, until it shall have been determined by the other commissioners, on penalty of forfeiting 50*l.* *f.* 8.

Commissioners concerned either in their own right or as agents, to have no voice in controversies.

(2.) *Meeting of commissioners ; and herein of the appointment of clerks and assessors, and their duties.*

And such commissioners as shall be duly qualified, shall, in the respective hundreds, laths, or other districts, cities, towns, and places, in the several counties and divisions for

Commissioners to meet annually.

Two commis-
sioners sufficient
to hold meet-
ings.

Commissioners
present to elect
a clerk.

Person selected
to be clerk for
one year, and
not removable
except for just
cause.

Commissioners
at their first
meeting to issue
precepts to per-
sons to be assis-
sors: and at the
second meeting
to appoint assis-
sors, and give
them instruc-
tions.

Assessors to
bring in assess-
ments on oath.

Assessors to
charge all per-
sons liable to the
duties, and to re-
turn names of
persons to be col-
lectors.

which they are or shall be appointed commissioners, meet together every year at the most usual place of meeting within such districts &c respectively, on or before the 10th of *April* yearly; and any two or more of them shall hold such meeting or any other meeting, and shall be competent to do any thing required to be done by them; and they or so many of them as shall be present at the first meeting in every year, or the major part of them, having qualified themselves as herein before directed, shall elect one fit and sufficient person to be their clerk, and one other fit person, if they shall deem it necessary, to be his assistant, for all the assessments to be made of the several duties with which the said commissioners shall be charged within their respective limits, for one year; and the person so elected shall, by virtue of such election, be the sole clerk to such commissioners for all the assessments to be made by them for such year, and shall not be removable from his office during the year for which he shall be so appointed, without just cause, and at a meeting of the commissioners for that purpose duly summoned by notice in writing, signed by two or more, and by the major part of them present at such meeting, and left at the usual place of abode of every qualified commissioner for such district, and place. *§. 9.*

And such commissioners shall also, at their first meeting, direct their several and joint precept or precepts to such a number of inhabitants of each parish, or place, as they shall think most convenient, to be presenters and assessors for the same; requiring them to appear before the commissioners at the place and time appointed, not exceeding ten days after the date of their precepts: and at such their appearances the commissioners shall appoint such of the inhabitants as they shall think proper to be assessors for such parish or place of the several duties with which the said commissioners shall be charged, for one year; and at the same time shall openly read unto them the several duties for which they are to be appointed assessors, and openly declare the effect of their charge unto them, and in what manner they ought to make their certificate and assessments of the several duties; and shall appoint another day, within the time herein-after limited, for them to appear before the said commissioners, and bring in their certificates of assessments of the several duties in writing under their hands, which shall be verified upon their oaths or solemn affirmations; which said assessors shall with all diligence, charge and assess themselves and all other persons chargeable with the duties so given to them in charge, and make their assessments according to the laws then in force, upon pain of forfeiting not exceeding 20*l.* nor less than 5*l.*; and at the time and place so prefixed for

for their appearance, such assessors shall return the names of two or more able and sufficient persons, within the bounds or limits of their respective parishes or places, to the commissioners, to be by them appointed collectors of the several duties. *Ibid.*

And in all extra-parochial or privileged places, and also in all parishes or other places where two sufficient inhabitants cannot be found, the commissioners may appoint two fit persons, residing in or near such respective places, to be assessors, who shall discharge their office in manner hereby directed. *f. 17.*

And if, in consequence of any failure, there be no assessors or collectors appointed, two justices in any county, or the chief magistrate and justices in any city, or place being a county of itself, shall, on notice of such default from the surveyor, appoint such assessors, or collectors; and the persons so appointed refusing to act or to take the oath required, forfeit *sol. f. 32.*

And every such assessor shall, before he shall take upon him the execution of the said employment, take the oaths required by the 1 *W. & M. c. 8.* or, being a *Quaker*, may make and subscribe the declaration of fidelity prescribed by the 1 *W. & M. c. 18.*; which oath or affirmation any one or more commissioners duly qualified, by whom such assessors shall be appointed, are to administer, as also every other oath or affirmation required by this or any act relating to duties to be assessed under the regulations hereof to be taken before such commissioners by any person whatever, in any matter touching the execution thereof. *f. 10.*

And every assessor shall take the oath, or, being a *Quaker*, shall make and subscribe the solemn affirmation (B), before the commissioners for executing this act, on pain of forfeiting *sol. for every offence. f. 11.*

The assessors so appointed shall, from time to time, annually make and deliver in writing their certificates of assessments of all the duties given to them in charge as aforesaid, unto any two or more commissioners, on or before the 5th of *June*, or as soon after as conveniently can be done: and any two or more commissioners to whom such assessments shall be so delivered shall forthwith sign the same, testifying their allowance thereof; and shall sign and seal three duplicates thereof to be prepared by their clerk, and forthwith shall nominate and appoint two of the persons named or presented in each assessment to be collectors, or any other two persons as such commissioners are hereby authorized to appoint, for the respective divisions and places for which collectors shall be so presented, and shall deliver one of the duplicates of such assessments so allowed, together

Oaths to be taken by assessors.

Commissioners empowered to administer oaths under this act.

Assessors to deliver assessments, which are to be signed by the commissioners.

Commissioners to sign the assessments, and the clerk to make out three duplicates.

Commissioners to appoint collectors.

with warrants under the hands and seals of two or more of them for collecting the same, unto the respective collectors; and one other duplicate to the surveyor of the district for the time being; and the third to be kept by such clerk for the use of the commissioners. *f. 12.*

Where assessments are not signed in time, they may be allowed by commissioners in the same county.

And if any assessments and duplicates be not signed and allowed in due time, for want of a sufficient number of commissioners attending at the proper time and place, the commissioners living in any parish within the same county or division, are empowered to allow and sign such assessments or duplicates which may be wanting for any parishes or places.

f. 30.

Commissioners not meeting at the time prescribed, may meet at other times.

But, if at any time the said commissioners do not meet, and any of the powers created hereby, or by the acts before mentioned, be not executed at the time prescribed; any two or more commissioners for the respective places where such default shall happen, may meet and execute the said powers at any other time. *f. 31.*

Assessors neglecting their duty.

And, in case such commissioners shall fail to appoint assessors conformably to this act, or such assessors shall neglect to perform their duty, the surveyors (to be appointed as herein-after mentioned) shall perform their services, until such assessors shall be appointed, and shall act with effect.

f. 18.

Commissioners to cause duplicates to be made for the receiver general and king's remembrancer.

The respective commissioners shall cause two duplicates of every assessment to be made out on parchment by their clerk, within one month after *Feb. 10*, after making the said assessment, yearly; one to be transmitted to the respective receivers-general, and the other to the king's remembrancer's office, in the exchequer, for which duplicates the proper officer shall give a *quittance gratis*; so as every of them be duly charged to answer their respective collections and receipts. *f. 46.*

Contents of duplicates.

Such duplicates shall be made for the same hundreds, places, or divisions, for which distinct duplicates are directed to be made out by the 38 G. 3. c. 48.; and shall contain the names and surnames of the several assessors and collectors of every hundred or other division, and also the full amount of the sum given in charge to the collectors throughout the year. And if any commissioners clerk neglect to make out such duplicates, or shall make any false entries of any sums, he shall forfeit 100*l.* and, on conviction, be dismissed from his office. *Ibid.*

In case of failure in assessing, &c. receiver general to certify the same to the exchequer.

And in case of failure in assessing the said duties or in returning the duplicates for any parish or place, the receiver general thereof for such parish or place shall certify the same to the barons of the court of exchequer, together with the names of the commissioners, assessors, collectors, and persons

charged with such duties, who shall have made failure in payment thereof. And they shall be respectively liable to process, from time to time, by writ of *disfringas*, by order of the barons, upon the application of the commissioners of taxes: unless the last mentioned commissioners shall certify to the court, if during term, or to one of the barons in the vacation, that the commissioners, officers, and other persons against whom such writ issued, have complied with the directions of this act; in which case the said court or baron may cause the process to be respited till a future day, and so from time to time, or to be finally discharged. *f. 47.*

By 45 G. 3. c. 71. *f. 2.* It is enacted that the above mentioned duplicates shall hereafter be sent by them to, and delivered at the office for taxes, for the previous inspection of the commissioners for the affairs of taxes, who may cause copies thereof, or any part thereof to be taken, and who shall afterwards transmit such duplicates to the king's remembrancer for the purpose above-mentioned; on pain of forfeiting 50*l.* by the clerk to the commissioners wilfully offending herein.

Duplicates to be first sent to the tax office.

(3.) *Appointment and duties of collectors.*

The commissioners are to nominate and appoint two of the persons named in each assessment, or any two other persons, such as they are authorized to appoint, to be collectors of the duties. And the said collectors are to demand the several sums contained in the duplicates given to them from the parties charged therewith, at the places of their last abode, or on the premises charged with the assessment, as the case may require, within ten days after the duties shall be payable next after such assessments shall have been delivered to them; and upon payment thereof to give acquittances under their hands, (without taking any thing for the same, the stamp duty excepted), unto the several persons who shall pay the same; and such acquittances shall be full discharges to them. *f. 12.*

Appointment of collectors.

Collectors to demand duties within ten days after they are due;

and to give acquittances."

And the collectors shall (if required) give sufficient security to any two or more commissioners, equal to the amount of the whole duty assessed and to be collected in each district or place by them respectively, for their duly paying such monies as they shall receive, and for their duly demanding the sums assessed of the respective persons from whom the same are payable; and in case of non-payment, their duly enforcing the powers of this act against defaulters, which security the commissioners are hereby authorized to take by a joint and several bond with two sureties at the least, to, and in the names of any two or more commissioners, in such

Collectors to give security.

penal sum, and with a condition thereto to the said effect; and on failure of the persons so first named or appointed to be collectors giving such security, if required, two or more commissioners may appoint any other sufficient persons, who can give such security, residing within the limit of the same district or place, to be collectors of the said duties; and every bond given by way of security shall be prosecuted by such commissioners on any default of the collector; but no such bond shall be put in suit against any sureties for any deficiency other than what shall remain unsatisfied after sale of the lands, tenements, goods, and chattels of such collector, in pursuance of the powers hereby given to the respective commissioners; nor shall such bond be subject to any stamp duty. But, if no persons can be found within the said limits, who are willing or able to give such security, then the persons who were so first presented to the respective commissioners shall be collectors within the limits of such districts or places respectively. *f. 13.*

Churchwardens &c. of inhabitants of parishes may require security to be taken from collectors.

And if any two or more inhabitants of the district or place for which such collector may be named, being respectively charged to any of the duties to be assessed under this act, or any two or more churchwardens or overseers, or guardians of the poor of any description, or any seven or more of the select vestry, where a select vestry shall be authorized to act for any parish or place, shall require security to be taken of the collectors to be appointed for the parish or place on behalf of which such application shall be made, and shall name proper persons to be collectors who respectively are willing to give such security, such commissioners shall not appoint collectors until such security be given; and if the person or persons so returned to them to be collectors shall not give such security, then they may appoint such persons, and no others, who shall have been named to them by the persons respectively before mentioned as fit and proper persons to be collectors, and who will give the security required. *f. 14.*

In which case no collectors shall be appointed until security be given.

Collectors, how to be appointed within the bills of mortality.

Within the bills of mortality, and the parishes of *Saint Mary le Bone* and *Pancras*, the appointment of collectors shall belong to the resident commissioners; and where two or more commissioners shall not be resident, the commissioners of the adjacent parish or place may appoint, or concur in the appointment of such collectors. And every collector appointed under this act, shall also by virtue of such appointment, act as an assessor for the same parish or place. *f. 15.*

Penalty on collectors disobedience or neglect.

And, if any assessors or collectors refuse to take the office, or neglect their duty, they may be fined by any two or more commissioners, not exceeding 20*l.* But no inhabitants of cities, boroughs, or towns corporate shall be compelled to

to be assessors or collectors out of the limits of such places.

f. 16.

In privileged and extra-parochial places, and where two sufficient inhabitants cannot be found, any two or more commissioners may appoint one or more collectors; who shall discharge their office according to the rules prescribed by this act. *f. 17.*

And if, in consequence of any failure, there be no collectors appointed, two justices in any county, or the chief magistrate and justices in any city or place being a county of itself, shall (on notice of such default from the surveyor) appoint collectors: and if the persons so appointed refuse to act or to take the oath, they shall forfeit 5*ol.* *f. 32.*

On payment of the duties being refused, collectors may distrain for the same upon the messuages, lands, and premises charged, or may distrain the goods and chattels of the persons charged, without any further authority than the warrant delivered to them by the commissioners at the time of their appointment. And the distress, so taken, shall be kept four days; when, if the duties be not paid, the same is to be appraised and sold, and the overplus (after deducting expences) shall be paid to the owner. *f. 33.*

Collectors may distrain.

Moreover, collectors may, in the day time, break open any house, having a warrant under the hands and seals of the commissioners for that purpose; and calling to their assistance the constable, tithing man, or headborough of the place where any refusal or resistance shall be made; which officers are required to assist, at their peril. And where any person charged shall refuse to pay, within ten days after demand, and no sufficient distress can be found, any two or more commissioners, by warrant under their hands and seals, may commit such person to the common gaol, until payment be made. And in case any difference shall arise, on taking such distress, the same shall be determined by the said commissioners. *Ibid.*

May break open houses.

(4). *Appointment and duties of inspectors or surveyors; and herein of surcharges and appeals.*

The several persons who, as inspectors or surveyors, are or may be authorized to execute any acts in force at the time of passing hereof, shall also be inspectors and surveyors under this act, whether they be appointed by the name of inspectors, expectant inspectors, or surveyors, either for any particular district, or for vacant districts, or otherwise by whatever name they shall have been or shall be appointed; and the king, or any three or more of the lords commissioners of the treasury, or the high treasurer for the time being, from time to time, may appoint such persons as he or they respectively shall think proper, to be officers for the survey and inspection

Appointment of inspectors or surveyors.

of the duties under the management of the commissioners of taxes, and for executing all things belonging to their office. *f. 20.*

Surveyors to certify surcharges twice in the year,

Every surveyor or inspector shall, twice in every year, between the 1st of *July* and the 10th of *August* following, and between the 1st of *December* and the 10th of *January* following, yearly, and at no other times, certify in writing, to two or more commissioners, all such surcharges as they may lawfully make, and shall give to every person surcharged, or leave, or cause to be left, at his or her last or usual place of abode in the district where such surcharge shall be made, notice in writing thereof, and of the amount for which he or she shall have been charged by virtue of such certificate. *f. 21.*

Notice thereof to be given.

Surcharges omitted the first half year, may be made for the whole year.

And if any surveyor or inspector shall omit to make a surcharge on or before the 1st of *August* in any year, he may make such surcharge or surcharges on or before the 1st day of *January* following, for the whole year. *f. 22.*

Penalty on surveyor or being guilty of vexatious or corrupt practices.

And if any such surveyor or inspector shall wilfully, through favour, under-rate or omit to charge any person, or shall be guilty of any corrupt, vexatious, and illegal practices in the execution of his office, he shall, for every offence, forfeit 100*l.*; and on conviction be discharged from his employment. *f. 23.*

Of appeals.

Persons over-charged may appeal to the commissioners, on giving ten days notice to the surveyor or assessor: which appeals, any two or more commissioners are required to hear and determine, unless notice has not been given; in which case they may dismiss the appeal; and confirm the assessment or surcharges appealed against. *f. 24.*

Assessments not to be altered before the time for hearing appeals, except in certain cases.

But no assessment which shall be delivered to any two or more commissioners by any assessor, shall be altered by them before the time for hearing and determining appeals, and then only upon a surcharge not appealed against, and according to such surcharge, or upon the commissioners hearing the matter of appeal particularly relating thereto, upon a general appeal may duly appoint; except in such cases only where such commissioners are specially authorized to alter or rectify any such assessment by the act or acts before mentioned. And if any clerk to such commissioners, or any other person, shall alter, or procure or suffer to be altered, any assessment, after the same shall have been allowed by the commissioners, except as aforesaid, or in cases of appeal, and by their order made after appeal, he shall forfeit 50*l.* *f. 25.*

Penalty on clerks or other persons altering the assessment improperly.

Commissioners, on hearing appeals, not to make abatement, unless in certain cases.

The commissioners shall not, upon hearing any appeal, make an abatement in the charge made upon any person by assessment, or by the surcharge of any assessor, surveyor, or inspector, but the same shall remain part of the annual assessment, unless it shall, upon hearing such appeal, appear to the
major

major part of the commissioners then present, by examination of the appellant upon oath or affirmation, or by other lawful evidence to be produced by him, that such person is over rated by any assessment or surcharge, and unless the appellant shall produce before the commissioners a true, and complete account or return as shall be required by the acts before mentioned, and verify the same upon oath or affirmation: and such surveyor, inspector, and assessor, may attend in support of the assessment or surcharge; and may, if he think proper, produce any lawful evidence in support of the same; and such surveyor, inspector, and assessor, shall have free liberty to be present during all the time of hearing such respective appeals, and of the said commissioners determining the same: but if upon such appeal it shall appear to the commissioners that the persons so assessed or surcharged, is or ought to be charged to any amount beyond the amount of such assessment or surcharge, they may charge such person to the amount of the sum omitted, in like manner as they might have done, if a true and perfect assessment had been made in the first instance: and no barrister, solicitor, or attorney, or any person practising the law, shall be allowed to plead before the commissioners on such appeal, either *viva voce* or by writing. *s. 26.*

Proceedings therein.

And any two or more commissioners, shall give such collectors notice at what time, within the periods limited, and at what place, the appeals of any persons who shall think themselves aggrieved may be heard and determined; and every collector shall also, within ten days after such notice, cause publick notice to be given in every parish church or chapel of ease belonging to any such parish, within his district or division, immediately after divine service on the Lord's Day (if divine service shall be performed in the said parish within that time,) or otherwise in the church of the next adjoining parish, of the time and place so appointed by the commissioners for hearing and determining such appeals, and shall also cause the like notice to be fixed in writing upon the door of each respective parish church or chapels of ease, that all persons aggrieved may know when and where to make their appeal to the said commissioners. *s. 27.*

Notice to be given of the times and places for hearing appeals.

And all appeals of which notice shall have been given to the assessor, surveyor, or inspector, between the 1st of *July* and the 20th of *August*, yearly, shall be determined by the said commissioners upon such days as shall by them be appointed for the hearing of such appeals, between the 20th of *August*, and the 20th of *September* following: and all such other appeals of which like notice shall have been given between the 1st of *December* and the 20th of *January* following, yearly, shall be determined by them upon such other days

Appeals, of which notice is given, to be heard and determined within certain periods.

as shall be appointed by them for the hearing thereof, between the 20th of *January* and the 10th of *February* following, yearly; and no appeal shall be allowed, heard, or determined, which shall not be made as before directed.

Determination
of the commis-
sioners appeals
to be final.

And the determinations of any two or more commissioners, or the major part of them present on the days by them appointed for hearing appeals, shall be final; and neither their determination, nor the assessment made thereupon, shall be altered on any pretence whatever at any subsequent meeting, or at any other time or place, except always in such cases where the opinion of the judges shall be required according to the provisions of any act concerning the same. *s.* 29.

(5.) *Provisions respecting the payment of money in the hands of collectors; and herein, in what cases parishes are answerable for their default, with the proceedings thereon.*

Collectors to pay
amount of duties
to the receiver-
general or his
deputy.

The particular collectors, who shall collect monies for the duties assessed under this act, shall pay the same to the receiver-general, or his deputy, who is to be appointed under his hand and seal, and for whom such receiver shall be answerable: whereof notice shall be given, yearly, to any two or more commissioners within their respective districts within 20 days after the 1st meeting; and so in like manner after the death or removal of any deputy. And such receiver-general, or his deputy, shall give receipts *gratis* to the collectors for all monies received by them; which receipts shall be a sufficient discharge to every collector. *s.* 48.

Collectors not to
travel more than
10 miles to pay
receiver-general.

But the particular collectors shall not be obliged to travel above 10 miles from their habitations, for payment of any money by them received unto such receiver-general or his deputy. *s.* 50.

Receiver-general
may levy for mo-
ney on collec-
tor's goods.

And the receiver-general or his deputy may call upon and hasten the collectors to make their payments; and in default thereof may cause the sums deficient to be levied by distress on the collector's goods, by warrant under the hands and seals of any two or more commissioners. *s.* 49.

Commissioners,
quarterly, or
twice in a year
at least, to call
the collectors
before them and
examine them
upon oath as to
the sums collect-
ed by them and
paid to the re-
ceiver general.

And at the end of every quarter of a year appointed for payments of the sums assessed, or within one calendar month thereafter, or at times such other as they shall think expedient, but nevertheless twice at least; (*viz.* on or before the 1st of *November* and the 1st of *May* following) in every year, and so from time to time as often as shall be necessary, any two or more commissioners within their respective districts, shall call before them the collectors of each parish or place, and shall

shall examine them upon oath or affirmation, and assure themselves of the money that shall have been collected and paid to such collectors, and shall make such order therein for payment of the same to the receiver general on the day or time appointed for receiving the same as they shall judge necessary; and also shall ascertain the sums in arrear, and the causes thereof; and also upon such oath or affirmation shall examine the collectors touching the due payment over of any sum collected by them in any preceding part of the same year; and in every case shall make such order therein as aforesaid. And the said commissioners are in every year to call before them the collectors of each parish or place in any former year, where any sum shall be in arrear or unpaid to the receiver-general, and shall in like manner examine them, and shall ascertain the sums of money collected by them, and the sums in arrear, and also the sums paid over to the receiver-general, and the sums remaining in their hands, and shall make such order therein as they shall judge necessary to prevent any failure in the payment in any part of the assessment charged by virtue of any acts, and so from time to time as long as any of the arrears shall remain charged upon any parishes or places; and the respective receivers-general, inspectors, and surveyors shall, when required so to do, assist such commissioners in their inquiry in all matters relating to their respective offices. *f. 39.*

Also the collector of any former year.

Receiver-general, inspectors, and surveyor, to assist commissioners.

Collectors, neglecting their duty, shall be dismissed, and the commissioners may from time to time appoint others, either by indorsement on the same precepts of appointment, or by other their precepts, in like manner, on the same security being given, and with the same powers as such first collectors were appointed. And the collectors dismissed shall deliver, on demand of such commissioners, to the new collectors, the certificates of assessments which they were charged to collect, and all accounts of receipts and vouchers of payment, and also shall pay to the receiver-general all sums then in their hands, at such time as such commissioners shall appoint, on pain of forfeiting 50*l.* to be charged in any assessment of such duties for such parish or place, and recovered as such assessment may be recovered, and shall also remain liable to such other forfeitures and disabilities that may be incurred by this act, for detaining the money in his hands after demand of the same. *f. 40.*

Collectors to be dismissed for neglect of duty.

And if any collector, being duly summoned, shall refuse to attend such respective commissioners, or shall not answer all such lawful questions as shall be demanded of him by them, touching the execution of his office, or shall refuse or neglect to produce to them the certificates of assessments, accounts,

Collectors refusing to attend commissioners with their assessments, &c. to forfeit 50*l.*

or vouchers of such receipts or payments, or shall not obey the order of such commissioners, he shall forfeit 50*l.* to be charged and recovered in like manner, over and above any forfeiture or disability that may be incurred by virtue of this act. *f.* 41.

Proceedings
where money
cannot be reco-
vered from col-
lectors under the
commissioners' -
warrant.

And whenever any money shall be detained by any collectors, or any penalties imposed on them shall remain unpaid, and cannot be recovered under the warrant or authority of the respective commissioners, or such commissioners shall neglect to issue such warrant, then such part thereof as cannot be so recovered, which shall have arisen from the said duties, shall be recoverable as a debt upon record to the king, with costs; and such part thereof which shall arise from any penalty as aforesaid, may be recovered by action or information, like other penalties under this act, with full costs; and the sum so recovered shall be paid to the receiver-general, in aid of the parish or place answerable for the same. *Ibid.*

Collectors, when
required, to de-
liver a statement
of their account,
on penalty of
20*l.*

The collectors of any parish or place, when required by any two churchwardens and overseers, or guardians of the poor, or by the select vestry, or any seven of them, shall deliver to them respectively an account in writing of the sums received by such collectors, of the sums in arrear, and of the sums remaining in his or their hands, and also of the sums paid to the receiver-general, on pain of forfeiting 50*l.* to the poor of the place where the offender shall reside. *f.* 42.

Parish to be an-
swerable for col-
lectors not de-
manding duties,
&c.

And if any collectors do not demand the duties of the parties charged, and execute the warrants of the commissioners for recovering the same, within two months after the duties are payable, the names of such persons cannot be inserted in the schedule to be returned by the receiver-general into the exchequer, but the parish must be answerable for the same.

f. 43.

Collectors not to
insert in any
schedule to be
returned into
the exchequer,
any person as a
defaulter, unless
upon oath as to
certain particu-
lars.

And no collector shall be allowed to insert in any schedule the name of any person to be returned into the exchequer as being a defaulter, unless such collector shall make oath, or, being a *Quaker*, shall make and subscribe a solemn affirmation before two commissioners, (who respectively shall certify the same), that the sum for which such person is so returned in default, is due and wholly unpaid, either to the collector or to any other person for him, to the best of his knowledge and belief, and that such person became insolvent or bankrupt before the day on which the duties became payable, and had not goods and chattels sufficient whereon to levy the same, within the parish or place for which such collector shall have been appointed at any time since such duties became payable, or that such person removed therefrom, before the day on which such duties became payable, without leaving therein sufficient goods whereon such duties then payable could be levied,

levied, and that there were not, nor are, any goods and chattels of any person liable to the payment of such duties in arrears, or any part thereof, whereby the same could be levied; which oath or affirmation shall be indorsed on such schedule.

f. 44.

And the collectors shall make a due return, fairly written on paper, under their hands, to such commissioners, containing the names, surnames, and places of abode of every person within their respective collections, from whom they shall not have been able to collect or receive such duties for any of the causes before-mentioned, and which shall have been duly verified on oath as aforesaid, and the particular reason for returning each defaulter, and the sums charged upon every such person. *f. 45.*

Collectors to make a return upon oath of persons from whom the duties cannot be collected.

And such commissioners, after due examination thereof on such oath or affirmation, shall ascertain the sums which shall have been discharged from assessment for any cause specially allowed; and shall also make out schedules of the sums so discharged from the assessments, and the sums with which the defaulters ought to be charged, and the sums which ought to be re-assessed upon the parish; and shall deliver the same to the receiver-general, to be returned into the exchequer, in order that process may issue for recovery thereof; and in default of such schedule, the receiver-general is required to return the parish *in super*: and if any collector neglect to make the returns before directed, he shall forfeit 100*l.* *Ibid.*

Proceedings thereon.

A like penalty of 100*l.* is incurred by collectors gathering by a false book, or receiving more than is charged in the rate, or who fraudulently alter any rate. *f. 50.*

And if any collectors refuse to pay the duties received by them, or to deliver their accounts, the commissioners may imprison them, and seize their estate and effects, wheresoever they can be found. And the commissioners, so seizing and securing the collector's estate, shall appoint a meeting of the commissioners for such division or place, of which they shall give at least ten days notice. And in case the collector's accounts are not delivered, or the money detained by him is not paid, the major part of the commissioners present at such meeting shall sell the collector's estates and effects, to satisfy the debt due from him, together with all costs and charges; rendering the overplus (if any) to the owner of the estate. *f. 52.*

Proceedings where collectors refuse to pay or account.

(6.) *Of the payments and accounts of receiver-general.*

At every time and place appointed by the commissioners of the district for the collectors to pay the monies to be paid to the receiver-general or his deputy, he or his deputy, under his hand, shall deliver a certificate fairly written, to such person

Receiver-general to deliver a certificate of the sums received by him in each parish.

person as any two or more of such commissioners, or any three or more of the commissioners of taxes for the time being, shall under their hands authorize and appoint to attend for that purpose, containing the respective sums of money paid by the respective collectors for each parish or place in that district; and if such receiver or his deputy refuse or neglect to deliver such lists of certificates, he shall forfeit, not exceeding 2*l.* *s.* 53.

Receivers-general to pay the monies received by them into the exchequer.

And the respective receivers-general shall pay the several sums by them received, as soon after the receipt thereof as conveniently can be done, and at such times and in such manner as shall be directed under this act; and if such receiver-general or his deputy shall pay any part of the monies received by them to any person other than into the exchequer, and at or within the times limited by this act, (except the necessary charges of receiving, managing, paying, and accounting for the same, as is herein-after directed, and except such payments as shall be made by authority of parliament), he shall for every such offence of himself, or his deputy, forfeit 500*l.* *s.* 54.

By 45 G. 3. c. 71. *s.* 1. It is enacted that the receiver general's accounts shall be verified by him or his deputy on oath to the best of his knowledge and belief, administered by any commissioner of the district.

Receiver-general to return no place *in super*, but in certain cases.

And no receiver-general (unless his accounts are passed within two years), shall return any county or place *in super* for monies in arrear; but he shall be answerable for the same. *s.* 55.

Penalty on receivers for making such returns.

And if any receiver-general return any sums in arrear or *in super* after he has received the same, he shall forfeit double the damages, recoverable as any other penalties under this act. *s.* 56.

Tax office may empower receivers to set *in super* and charge counties for arrears of land tax in certain cases, (see 42 G. 3. c. 116. *s.* 178.)

By 45 G. 3. c. 71. *s.* 4. "And whereas receivers have in some instances been prevented and may hereafter be prevented, without any wilful neglect or default on their part, from passing their land tax accounts in the exchequer, within the periods prescribed by law, by reason whereof they would be unable to set *in super* or charge the respective counties, divisions or places for which they are receivers, for any monies which may be in arrear and unpaid, and would become answerable for such monies in arrear, and it is expedient to provide relief in such cases;" be it therefore enacted, that whenever it shall be made appear to the satisfaction of the commissioners for the affairs of taxes, or any three or more of them, that the receiver of any county, division or place in *England*, hath been prevented by reason of correct and proper duplicates of land tax not having been transmitted to him, or for any other cause not arising from his

his own wilful neglect or default from passing his land tax accounts in the exchequer, either for the year ending the 25th day of *March* 1799, or for any subsequent years within the periods prescribed by law for passing accounts of land tax by receivers, it shall be lawful for the said commissioners, or any three or more of them, by writing under their hands to authorize and empower such receiver to set *in-super* or charge such county, division or place, for any monies granted by virtue of an act passed in the 38th year of his present majesty's reign, for granting an aid to his majesty by a land tax, which shall be in arrear and unpaid; and in every such case it shall be lawful for such receiver to set *in-super* and charge such county, division or place, for the monies so in arrear and unpaid in like manner in all respects; and such and the like process may and shall thereupon issue for the recovery thereof as if such accounts had been declared and passed in the Exchequer within the period prescribed by law for passing accounts of land tax by receivers.

38 G. 3. c. 9.

The commissioners of taxes are to give notice of the death or removal of any receiver-general to the commissioners of the districts. *f. 57.*

Notice to be given of receiver's death or removal.

No receiver-general shall maintain any action against the hundred on being robbed, unless the persons carrying the money be three in company, to attest the truth of such robbery. *f. 58.*

In what cases receivers may bring an action for robbery.

By 48 G. 3. c. 55. Every receiver general shall have an allowance of $1\frac{1}{2}d.$ in the pound for all monies received and paid by him into the exchequer, or duly accounted for according to the course of the exchequer: Every collector shall have $3d.$ in the pound for what money he shall pay to the receiver general in due time for all the duties in this act, except schedule (L); and for the duly writing and transcribing the assessments, duplicates, warrants and estreats; and for duly executing all things directed to be done by or under the commissioners, the clerk performing the same shall by warrant under the hand of two or more of the commissioners of each district respectively receive from the respective receiver general, provided the said acts be duly executed, and the said assessments &c. and the duplicates, duly made and delivered, but not otherwise, the following sums; viz. if the total amount of such allowance for one year, calculated at the rate of $1\frac{1}{2}d.$ in the pound, on the monies assessed in that year, and paid to the receiver general, shall amount to 100*l.*, then such clerk shall not receive more than at the rate of $1\frac{1}{2}d.$ in the pound of monies so paid.

Allowances to receiver-general.

Collectors,

and clerks of districts.

If such amount shall in any district in one year exceed 69,000*l.*, then the clerk of such district shall receive at the rate of $1\frac{1}{2}d.$ in the pound upon such sum of 96,000*l.*; and a further

further

further allowance of one half of $1\frac{1}{4}d.$ for every pound exceeding 96,000*l.* And if such total amount of allowance, calculated at the rate of $1\frac{1}{4}d.$ in the pound, shall not amount to 100*l.* then such clerk shall receive an allowance at the rate of $1\frac{1}{2}d.$ in the pound, so that the allowance calculated as last aforesaid shall in no case exceed 100*l. per annum.*

(7.) General provisions for enforcing and facilitating the execution of this act.

Officers executing this act, &c. to be liable only to the penalties hereof.

Proceedings where persons remove without paying the duties.

Where parishes lie in two counties, or houses in two parishes.

No goods to be taken by virtue of any process except at the suit of the landlord for rent.

Powers of 27 G. 2. c. 20. and 33 G. 3. c. 55. applicable to the commissioner.

Constables, &c. to aid and assist in the execution of this act.

No commissioner, assessor, or collector, acting under this or any acts herein mentioned, shall be liable to any other penalties but those which are contained herein. *f. 19.*

When any persons remove without first paying the duties charged on them, the commissioners shall certify the same to the commissioners of the place where the party may reside; any two or more of whom shall cause the amount thereof to be levied, and to be paid to the collector of the parish where the assessment was made. *f. 35.*

Where parishes or places are in two counties, the duties charged thereon shall be assessed in the county where the church is situate; and where houses are situated in two parishes, the whole of the duties shall be charged in one: and the party so charged shall be relieved from any second assessment thereon, as in other cases of double assessments. *f. 36.*

No goods whatever, belonging to any persons in arrear, shall be liable to be taken by virtue of any execution or other process or authority, or by virtue of any assignment, on any pretence whatever, except at the suit of the landlord for rent, unless the party at whose suit the said execution or seizure shall be sued out, or to whom such assignment shall be made, shall, before removal of such goods, pay or cause to be paid, the arrears not exceeding one year: and in case of refusal to pay the duties, the collectors may distrain and sell the goods, in order to obtain payment of the duties assessed, together with the costs attending such distress and sale; for which proceeding every collector, thus acting, is hereby indemnified. *f. 38.*

All the provisions, remedies, and powers of the 27 G. 2. c. 20. and 33 G. 3. c. 55. shall be used and practised by the respective commissioners, and by any inspector, surveyor, or collector acting under their authority, for recovering arrears of duties, beside the remedies and powers hereby provided. *f. 38.*

And all constables, headboroughs, tythingmen, and other officers, are hereby required to be respectively aiding and assisting in the execution of this act, and of every act for granting

ing duties to be assessed under this act, and to obey and execute such precepts and warrants as shall be to them directed in that behalf by any two or more of the respective commissioners hereby appointed. *f. 59.*

And if any persons shall wilfully obstruct any assessor, collector, surveyor, or inspector, in the due execution of his office or duty, he shall, for every offence, forfeit 5*ol.* *f. 60.*

And the receivers general, their deputies, surveyors, inspectors, and all other persons employed in executing any acts for granting duties to be assessed under the regulations hereof, shall follow such orders and directions as they shall from time to time receive from any three or more of the commissioners of the treasury. *f. 61.*

To prevent the inconveniencies arising to commissioners on the death or removal of their respective clerks, from the difficulty of recovering papers in their possession; it is enacted that all minute and other books and papers relative to the duties shall be the property of the commissioners of the districts for the time being and in succession, as records; and shall be deposited with such persons as any two or more of the commissioners shall from time to time appoint. *f. 67.*

All persons having any such books or papers in their possession or custody shall, within one calendar month after notice in writing, signed by three or more commissioners, (a true copy thereof being left at their usual place of abode,) deliver up the same to the persons appointed by the commissioners (whose receipt shall be a sufficient discharge to the parties so giving up the same), on pain of forfeiting 5*ol.* And the persons receiving the same shall deliver them to such of the commissioners for executing this act as the commissioners of taxes shall direct. *f. 68.*

Penalty on persons obstructing officers.

Officers to follow such instructions as they shall receive from the commissioners of the treasury.

All books, &c. relating to the duties to be the property of the commissioners.

Penalty on persons refusing to deliver up such papers on commissioners' orders.

(8.) *Recovery and application of penalties*

One moiety of all pecuniary penalties and forfeitures imposed hereby, or by any act for granting duties to be assessed under the regulations hereof may, if sued for within 12 calendar months from the time of their being incurred, in manner herein next mentioned, be to the king, and the other moiety thereof, with full costs of suit, to the informer or person suing within the time aforesaid, except where any penalty is or shall be directed to be paid to the poor of any parish; and all such penalties may be sued for in the exchequer at *Westminster*, for offences committed in *England* or *Berwick-upon-Tweed*, or in the courts of great sessions in *Wales*, for offences committed in *Wales*; but the attorney-general, in case it shall appear to his satisfaction that any penalty was incurred without intention of fraud, may stay all further

Application of penalties sued for within 12 months.

proceedings in such suits by entering a *noli prosequi*, or otherwise. *f.* 62.

Recovery and application of penalties not sued for within 12 months.

But any such penalty shall be recoverable in the name of the attorney-general, on the part of his majesty, by information in the exchequer at *Westminster*; and in default of prosecution within the time limited no such penalty shall be afterwards recoverable in any other manner; in all which cases, (except where the same is directed to be paid to the poor of the parish or place), the whole of the penalty shall belong to the king; and all penalties and shares of penalties incurred as aforesaid, belonging to his majesty, shall be paid into the hands of the proper receiver-general or his deputy to his majesty's use; and in all cases where the whole of such penalty shall be recovered for his majesty's use, the commissioners of taxes may cause such reward as they shall think fit, not exceeding one moiety, after deducting all the charges incurred of recovering the same, to be paid thereout to any informer who shall be entitled thereto. *f.* 63.

Application of penalties recoverable before the commissioners.

All penalties, not exceeding 20*l.*, shall be recoverable before any two or more commissioners for executing this act; and also penalties exceeding that amount, if directed, to be added to the assessments. And such commissioners shall take cognizance of such offence, upon information or complaint in writing made to them, and upon a summons to the party accused to appear before them at such time and place as they shall fix, or without such summons in case the party shall have been surcharged before them, and shall have appealed against the same and shall appear upon such appeal before the said commissioners; and such commissioners shall examine into the matter, and determine the same in a summary way; and upon proof made thereof, either by voluntary confession of the party accused, or by oath or affirmation of one or more credible witnesses, or otherwise as the case may require, shall give judgment for the penalty, or for such part thereof as the commissioners shall think proper to mitigate, the same not being in any case less than one moiety; and shall assess the same upon the party, and charge the same in the assessment to which the penalty adjudged shall particularly relate, and in addition to the duty, in case the party shall be charged therewith; which penalties so adjudged shall be levied in like manner as the said duties: and the informer shall in all such cases, (except where the penalty is to be paid to the poor of any parish or place, in which case the receiver-general shall pay the same either to the churchwardens or to the overseers), be entitled to receive from the receiver-general one moiety of the amount of such penalties, in such shares, where two or more of them are concerned; as the commissioners for executing this act shall certify to the commissioners of taxes they are respectively

respectively entitled unto : and the adjudication of the commissioners shall be final and conclusive, without power of appealing from the same. *f. 64.*

And the proceedings of the commissioners shall not be removeable by any process whatever into any court of law or equity, or be subject to revision, except where a surcharge shall be made, and a case shall be demanded and stated for the opinion of one of the justices or barons of the superior courts, conformably to the directions contained in any act or acts granting the duties to which such surcharges shall relate. *Ibid.*

Proceedings of commissioners not to be subject to revision, except in certain cases.

Persons giving false evidence before commissioners, and being convicted thereof, shall be liable to the punishments for perjury. And any indictment for perjury, committed in any examination before them, shall be tried in the courts where the deposition shall be exhibited. *f. 65, 66.*

Penalty on persons giving false evidence.

But commissioners acting in the execution hereof, or of any act for granting duties to be assessed under the regulation hereof, shall not be liable by reason of such execution, to any of the penalties mentioned in 25 C. 2. c. 2. *f. 69.*

Commissioners acting under this act not liable to the penalties in the 25 C. 2.

If any action be brought against any person for any thing done in pursuance hereof, or of any act for granting duties to be assessed under the regulations of this act, such action shall be commenced within six calendar months next after the fact committed, and shall be laid in the county or place where the cause of complaint did arise ; and no writ or process shall be sued out for the commencement of such action or suit, until one calendar month's notice in writing shall have been delivered to, or left at the usual place of abode of such person, by the attorney of the intended plaintiff, in which notice shall be clearly contained, the cause of action, the name and place of abode of the intended plaintiff and of his attorney : and no evidence shall be given on the trial of such action of any cause of action other than such as is contained in such notice ; and the intended defendant, to whom such notice shall have been delivered, may, at any time before the expiration of such calendar month, tender amends to the intended plaintiff or his attorney, and in case such amends are not accepted, may plead such tender in bar to any action to be brought against him, grounded on such notice, writ, or process ; and the defendant may plead the general issue, and also such tender, and any other plea in bar of such action ; and may give this act and the special matter in evidence at any trial to be had thereupon ; and if the jury find for the defendant, or if the plaintiff shall be nonsuited or discontinue his action ; and if upon demurrer judgment shall be given against the plaintiff, the defendant shall have treble costs. *f. 70.*

Limitation of actions.

General issue.

Treble costs.

And every such action which shall be brought against any collector

Actions brought against collectors to be defended

by the commissioners of the district.

collector under this act, shall be defended by the commissioners of the place where such collector shall have been appointed; and the costs attending the same, as also any other action to be brought by or against commissioners or collectors in pursuance hereof, or for any thing done in pursuance of this act, or any act for granting duties to be assessed hereunder, shall be defrayed by an assessment made on the parish or place for which such collectors shall have been appointed, in a just proportion to the amount of the duties payable under this act, on the respective persons charged to the same in the assessment to be made next after the time when the said costs and charges shall have been incurred. *Ibid.*

(A) Form of the oath required to be taken by commissioners, before they act in the execution of this act.

I A. B. do swear, That I will truly, faithfully, impartially, and honestly, according to the best of my skill and knowledge, execute the several powers and authorities reposed in me as a commissioner, by an act passed in the forty-third year of the reign of his present majesty, intituled, An act [here insert the title of this act], or by any other act or acts, granting to his majesty any duties to be assessed under the regulations of the said act, and that I will judge and determine upon all appeals, and all other matters and things which shall be brought before me as a commissioner under the said acts, or any of them, without favour or affection.

So help me God.

(B) Form of the oath or affirmation required to be taken by assessors, before they act in execution of this act.

I A. B. do swear, [or, affirm, as the case may require], That I will diligently execute the office of an assessor, to which I am appointed by authority of an act, passed in the forty-third year of the reign of his present majesty, intituled, An act, [here insert the title of this act], and that in the assessment which I am required to make by any other act or acts, granting to his majesty any duties to be assessed under the regulations of the said act, I will faithfully and honestly act without favour or affection, according to the best of my skill and knowledge.

So help me God.

II. Of the assessed taxes.

By the 38 G. 3. c. 40. §. 41. the management of the assessed taxes is transferred to the commissioners for the affairs of taxes.

By 43 G. 3. c. 161. the several duties imposed by the following

Under the management of the commissioners for taxes.

following acts are repealed from April 5, 1804, viz. 20 G. 2. c. 3 & 42. 21 G. 2. c. 10. 26 G. 2. c. 17. 2 G. 3. c. 8. 6 G. 3. c. 38. 17 G. 3. c. 39. 18 G. 3. c. 26. 19 G. 3. c. 59. 21 G. 3. c. 31. 24 G. 3. (ft. 2.) c. 31 & 38. 25 G. 3. c. 43 & 47. 26 G. 3. c. 79. 29 G. 3. c. 49. 32 G. 3. c. 2. 36 G. 3. c. 15, 16, 117 & 124. 37 G. 3. c. 106, 107 & 134. 38 G. 3. c. 40, 41, 80 & 93. 41 G. 3. c. 9. 40, 62 & 69. 36 G. 3. c. 17. 41 G. 3. c. 71. 42 G. 3. c. 34. 37 & 100; excepting as to arrears and penalties; and such provisions of the said acts as relate to other things; which arrears, under former acts, the commissioners and other officers under this act are empowered to levy. *f.* 84, 85.

By the 45 G. 3. c. 13. Additional duties were imposed upon horses used in riding, and drawing certain carriages, which duties were consolidated with those granted by the former act of 43 G. 3. c. 161. By the 46 G. 3. c. 78. an additional duty of 10l. *per cent.* upon the amount of the duties granted by the two last acts was granted.

By the 48 G. 3. c. 55. *f.* 1. In lieu of those several duties others were granted as in the schedules hereafter annexed: and by *f.* 2. of the same act the former duties were repealed, and those imposed by this act are to be levied &c. under the provisions of the 43 G. 3. c. 161: as also are the arrears of duties granted by the former acts: and by *f.* 3. the stamp duty on game licenses under 44 G. 3. c. 98, is repealed, and a new duty is imposed by *f.* 4.; which will be found in the schedule (L.)

By *f.* 5. The said consolidated and new duties shall be assessed &c. under the provisions of the 43 G. 3. c. 99. c. 150. c. 161. 45 G. 3. c. 5. c. 71. c. 95. and the 46 G. 3. c. 84. How assessed.

By *f.* 6. Commissioners for the former acts shall be commissioners for the present act.

By the 50 G. 3. c. 104. *f.* 1. 2. and the schedules to that act annexed, certain new duties are imposed in respect of contracting gardeners, taxed carts, and carriages with less than four wheels: And the schedules are declared to be as if annexed to the corresponding schedules of the 48 G. 3. c. 55. and the duties to be placed under the regulations of that and former acts.

The various regulations of the 43 G. 3. c. 161. it is attempted to arrange under the following heads:

- (1.) *Qualifications and powers of commissioners, assessors, and collectors.*
- (2.) *Of making assessments, and returning lists of persons liable to the assessed taxes.*
- (3.) *Regulations concerning the amending of assessments, and making surcharges; and herein of appeals.*

- (4.) *Provisions for facilitating payment of the duties.*
- (5.) *General regulations, relative to the execution of the act.*
- (6.) *Allowances in respect of children.*
- (7.) *Duties.*
- (8.) *Additional act, relating to taxed carts and gardeners.*

(1.) Qualifications and powers of commissioners.

Commissioners of the land-tax, who shall be duly qualified and having taken the oaths, to be commissioners for executing this act.

For the better execution of this act, and for collecting, levying and paying the several sums hereby made payable, all the persons who now are, or for the time being shall be commissioners for executing the land-tax act, 38 G. 3. c. 5.; and who shall be respectively qualified to act, and shall have taken the oaths as directed by the 43 G. 3. c. 99. shall be commissioners for executing this act, and the powers therein contained, and the several sums of money so levied shall be under the care and management of the commissioners of taxes for the time being. 43 G. 3. c. 161. s. 6.

Commissioners, &c. to execute the powers of 43 G. 3. c. 99. with respect to the duties hereby granted.

And the assessors and collectors appointed by such commissioners for any parish or place, in pursuance of the 43 G. 3. c. 99. shall be assessors and collectors of the several duties hereby granted; and the commissioners shall cause notice to be given to such persons, that they respectively are appointed such, and the several commissioners, inspectors, surveyors, assessors, and collectors, are hereby empowered to do all things in relation to the duties hereby granted, which they respectively are empowered to do and execute in relation to the duties mentioned in the 43 G. 3. c. 99.; and shall severally be liable to the like penalties for any neglect or omission in the performance of their duty, or any fraud or abuse in executing the same, as are thereby inflicted on such officers for the like offences. s. 8.

(2.) Of making assessments, and returning lists of persons liable to the assessed taxes.

Assessors within certain periods to give general notices, requiring lists to be delivered; which shall be deemed sufficient notice.

And the assessors for the time being shall, within 21 days after the times appointed for the commencement of the said duties, and for every subsequent year, within 21 days after the commencement of the respective duties for each year, cause general notices to be affixed on the doors of the church or chapel, or market house or cross (if any) of the city, parish, or place for which such assessor shall act; and if there be none, then on the nearest church or chapel door of any adjoining parish, requiring all persons residing in the said city, &c. who are hereby required so to do, to make out and deliver to the respective assessors, within 14 days after the date

date of such notice, such lists or declarations as are herein required ; and such general notice shall, when the same shall be affixed, be deemed sufficient notice of the time within which such returns shall be required to be made in each year, to all persons residing in such city, &c. ; and the affixing the same as before directed shall be deemed good service of such notice to all persons within the said limits ; and the respective assessors shall replace the said notices from time to time (if necessary) during the said 14 days previous to the time required for the delivery of such lists or declarations as aforesaid ; and every person wilfully tearing, defacing or obliterating any such notice so affixed, shall forfeit, for every offence, not exceeding 20*l.* nor less than 5*l.* *f.* 25.

Penalty for defacing such notices.

Beside such general notices, the respective assessors shall within the periods before mentioned, in every year, give or leave at every dwelling house, where any person liable or supposed to be liable to the several duties hereby made payable, or any of them, shall usually reside within the limits of the places for which such assessors act, one notice for the occupier thereof ; and where such dwelling-house shall be let in different apartments, and occupied distinctly by different persons or families, a like notice for the occupier of each distinct story or apartment, provided any person liable or supposed to be liable as aforesaid shall reside there, and also a like notice for every person so liable, then residing in such dwelling-house as a lodger or inmate, within the knowledge of such assessor or assessors, requiring such persons to produce, within 21 days next ensuing the date of such notice, a list or declaration in writing, in the form and manner herein-after required. *f.* 26.

Assessors also to leave notices at every dwelling-house where any person liable to the duties shall reside.

And every person liable to the said duties shall, in every year subsequent to the respective days appointed for the commencement of the same, within six weeks thereafter, whether any previous notice for that purpose shall have been delivered or not, cause to be prepared and to be delivered to the respective assessors for the time being, true and particular lists of the greatest number of servants or other male persons retained or employed, and of carriages, horses, mules, and dogs kept by such person, or of his or her having used or exercised the trade or business of an horse dealer, or coachmaker, or maker of carriages, or of a seller of carriages by auction or on commission ; or of having worn or used hair-powder, or any armorial bearings or ensigns, at any one time in the course of the preceding year ending on the then preceding 5th of *April* ; which lists shall be prepared in the form before prescribed, and according to the directions of this act in respect thereof ; and such person shall renew the same in the same manner in every year so long as he shall be liable to any of

Lists to be returned annually within six weeks from the days appointed for the commencement of the duties in each year.

Charges, how to be made.

the said duties ; and such persons shall be annually charged to the several duties, according to such respective lists ; and the assessment shall be for the year in which the returns shall or ought to have been made. *f. 28.*

Assessors to make an assessment according to the best information they can obtain, upon persons refusing or neglecting to deliver lists.

And if any person shall neglect or refuse to make out, sign, and deliver any such lists as are herein directed, within the respective times herein-mentioned, then the assessors shall, from the best information they can obtain, make an assessment upon such person for or in respect of any of the various duties as aforesaid, according to the rates specified in the schedules, and shall include the same in the certificate of the assessment to be delivered to the commissioners as herein directed ; and every assessment made upon any such neglect or refusal, shall be final upon the person thereby charged, who shall not be at liberty to appeal therefrom, unless such person shall prove that he was not at his place of abode at the time of delivering such notice, nor between that day and the time limited for delivering such list to the assessor, or unless such person shall prove such other excuse for his or her default, as the commissioners shall think sufficient. *f. 30.*

Such assessments not to be subject to appeal, except under certain circumstances.

Assessors not bound by the lists delivered, in what case.

And the said assessors shall not be bound by the lists delivered to them, but shall be at liberty to make a true assessment on the party, if they find on due examination that any article or thing, that ought to have been inserted in such list, is omitted. *f. 31.*

Occupiers of houses to require declaration or returns from lodgers and inmates.

And every occupier, in whose dwelling-house or apartment any person liable to any of the duties hereby made payable, shall reside as a lodger or inmate, shall, for the purpose of making accurate returns, cause the contents of the notice left at his or her dwelling-house to be read over and made known to each lodger or inmate not having received a like notice, requiring them respectively to declare to such occupier, and attest the return to be made, whether he or she be liable to either of the said duties, or be exempted therefrom, or whether he or she have another place of ordinary residence where he or she intends to be charged ; and every person so resident, being thereunto required, shall make such declaration on pain of forfeiting 50*l.* for such refusal. A like penalty is also imposed on occupiers of dwelling-houses neglecting or refusing to require or insert the same in their respective lists. *f. 32.*

And every occupier of any dwelling-house or separate apartment, who shall not return such list of lodgers or inmates, or shall omit any who ought to be returned therein, and who to his or her knowledge shall have worn hair-powder or used any armorial bearings within the period for which the return should be made, shall be liable to prosecution

cution for the penalty hereby inflicted, and shall be deemed guilty thereupon, whether it shall appear that the person so omitted or not returned hath or hath not made a return for himself or herself at any other place, or hath or hath not been, or is liable to be prosecuted for any offence against this act, and the conviction of any such offender shall not exempt the persons omitted or not returned, from paying the duty imposed, or from prosecution or punishment for any offence against this act. Provided that any lodger or inmate, residing in any dwelling house at the time of making such return, who shall have an ordinary place of residence elsewhere, shall be returned as ordinarily residing in such other place. *f. 52.*

And the assessors shall, upon receipt of any list containing the name of any lodger or inmate returned liable to any of the said duties, give or leave the like notice for every such person to prepare and produce, within the like period, a list or declaration signed as aforesaid; who shall, within 21 days after such notice left, make out and sign a list or declaration, on pain of forfeiting 50*l.* for neglecting to deliver any such list or declaration. *f. 33.*

Assessors to leave notices for lodgers or inmates liable to the duties.

And every person, having divers places of residence, or who shall keep any servants or other male persons herein described, carriages, horses, mules, or dogs, at divers places, and every person being an inmate or lodger at the time of such notices being given as aforesaid, and having an ordinary residence at some other place, whereat such person ought to be charged, shall be obliged to deliver all such lists at each such place, and shall insert in every such list the name or description of each person, article and thing, for which such person is liable to any of the duties, or which ought to be returned according to the directions of this act; and shall also in every such list specify the particular persons, and number, of each description of articles, respectively intended to be paid for within the limits of the district, parish, or place, where such list shall be delivered, and shall also at the same time make his declaration, to be inserted in such list, and signed by him or her, specifying the particular county or parish wherein each such other place of his or her residence is situate, and also the particular county or parish wherein the said duties, or any part thereof, are or is intended to be paid. *f. 34.*

Persons having divers places of residence, or keeping servants, carriages, &c. at divers places, and lodgers or inmates having an ordinary residence at some other place, to deliver lists at each.

And if any person having delivered his or her declaration to pay the said duties in any other parish or place, than in that where such list shall be delivered, shall not return a list accordingly, in order to his or her being regularly charged by the assessors for such other parish or place, he shall forfeit 50*l.* *f. 35.*

Penalty on such persons refusing to deliver lists.

And

Claims of exemption (except with respect to the royal family) to be returned to the assessors.

Proof to lie on the party.

Penalty for neglect in delivering lists or declarations, or for omissions therein, and for making an untrue return.

Householders of lodging-houses to keep books containing entries of certain particulars which are to be inspected by assessors or surveyors, and copies thereof to be delivered at certain periods.

And every person claiming to be within any of the exemptions hereby allowed, or by any of the schedules * (C. D. E. F. G. H. I. or K.) hereunto annexed (except the royal family, in such cases where they are specially exempted) shall make a due return thereof, and declare the cause of such exemptions, such declaration to be specified in or annexed to the lists to be by him or her delivered; and if any dispute shall arise relative to such exemption, the proof thereof shall lie on the person claiming it; who, on any charge or prosecution, shall be permitted to allege the same on oath or affirmation, or to prove the same by lawful evidence to be produced by him or her: but no such exemption shall be allowed unless the same, and the cause thereof, shall have been so duly returned to the assessor or assessors. *f. 36.*

And if any person liable to any of the said duties, in respect whereof a list or declaration ought to be delivered, or coming within any of the exemptions contained in this act, shall neglect to deliver a list or declaration according to the directions of this act, in every parish or place where the same ought to be delivered, or shall omit any person, description, matter, or thing which ought to be contained therein, or shall make an untrue return of any particular therein, the offender shall forfeit 50*l.* over and above any duty chargeable as aforesaid. *f. 37.*

But the penalty hereby last imposed for omissions in any such lists shall not be sued for, when the party has been surcharged and assessed in double the duty, or any proportion thereof. *f. 38.*

And every inhabitant householder of any lodging-house, in which any lodger shall reside liable to any of the duties hereby made payable, of which lists are required to be made, shall from time to time enter in a book an account of every person so liable; which books shall, at all reasonable times, be inspected by the assessors, surveyors or inspectors of the place where such person shall reside. And every such householder shall, within 20 days after the 5th of *July* and the 5th of *October*, 1804, and within 20 days after the 5th of *January* and the 5th of *April*, the 5th of *July* and the 5th of *October* in every subsequent year, deliver a true copy in writing of every entry made in such book during each preceding quarter, to the assessor for the use of the inspector or surveyor, or to such surveyor or inspector; and, when required by such surveyor or inspector, every such person, or

* This applies to the corresponding schedules in 48 G. 3. c. 55.

his or their chief servant or manager shall make oath or affirmation of the truth of such account ; every copy of which shall, to the best of his or her knowledge or belief, express the christian and surname of every person therein required to be entered, and the place of his, her or their usual residence ; on pain of forfeiting 50*l.* for neglecting to keep such account, or to deliver such copy thereof, or for wilfully omitting any description that ought to be inserted therein. *f.* 43.

And forms for entering such accounts shall be prepared by the commissioners for taxes, and issued to every person applying for the same and leaving his or her name and place of abode in writing at the tax-office, or with any surveyor for the district where such applicant shall reside : and every such account shall at the end of the year (all such entries being required to be first duly made) be signed by the party with his or her own proper name, in his or her usual manner of writing, and returned in like manner as aforesaid. And in default of such application the party shall provide, fill up, sign and deliver proper forms to the assessor, surveyor or inspector in like manner, on pain of forfeiting 50*l.* for neglecting to deliver up such accounts within the time limited *f.* 44.

Forms, for entering such accounts to be prepared by the tax-office.

And the commissioners of taxes may cause lists of persons having made returns, or being charged with the duties hereby imposed, to be made out for the inspection of persons applying for that purpose ; and may authorize copies thereof to be made by the inspectors, surveyors, or other officers employed by them, in such manner and at such times as the commissioners shall think fit : which copies signed by such inspector or other authorized officer shall be admitted as evidence in all courts, and before all persons acting in the execution hereof ; and for which copies the fee of 1*s.* may be taken for the return of each person. *f.* 49.

Commissioners of taxes to cause certain lists to be made out for inspection of persons applying ; copies whereof to be admitted as evidence.

The commissioners of taxes may from time to time, under the direction of the lords of the treasury, publish or cause to be published lists of the persons, charged to the several duties hereby imposed, in the respective counties, divisions and places, in such manner as they shall direct. And every person wilfully defacing, tearing or removing any such list from any church or chapel door or market-cross, whereon the same shall be affixed, shall forfeit 5*l.* for every offence. *f.* 50.

Lists of persons charged may be published under direction of the treasury.

(3). Regulations concerning the amending of assessments, and making surcharges ; and herein of appeals.

The respective assessors, acting under this act, shall bring in their certificates of assessments in writing under their hands

Assessors to bring in certificates of assess-

ments for all the duties, with the names of those who have claimed exemptions, to be verified on oath, and to be delivered at the times, and according to the provisions of the regulating act.

hands, within the time limited by the 43 G. 3. c. 99. (a) to be verified as therein directed, of every dwelling house, inhabited or not inhabited, within the limits of those places for which they act, and of the number of windows or lights in each, and the full yearly rent which every such dwelling-house, with the offices and premises hereby charged, is really worth, estimated according to this act, together with the names and surnames of the several occupiers or inhabitants of each house, and also the greatest number of male servants, or other male persons herein described, carriages, horses, mules, and dogs, which shall have been retained, kept, or used, within the then preceding year, for which the persons retaining, keeping, or using the same, ought to be assessed to any of the duties hereby made payable for the current year, within the limits of those places for which they act, and the names and surnames of such several persons, and also the names and surnames of all persons within such limits liable to the duties, in respect to their trade or business of an horse dealer, or of their trade or business of a coachmaker, or maker of carriages, or seller of carriages by auction, or on commission, or in respect of hair powder, or any armorial bearings or ensigns worn or used by them, and of the several sums they respectively ought to pay by virtue hereof, in each case respectively, without concealment or favour; and also the names and surnames of those who have claimed exemptions from any of the said duties, and the causes of such exemption under the penalty contained in the 43 G. 3. c. 99. observing the regulations thereof as to the time of bringing in such certificates. *f. 62.*

Inspectors and surveyors to examine returns and assessments, and amend the same before they are allowed by the commissioners.

And the surveyors or inspectors appointed or to be appointed as herein mentioned, shall inspect and examine all the returns of lists or declarations made by any persons chargeable to any of the said duties, according to the directions of this act, and also all the assessments of any of the said duties, made for any parish or place, as well before as after the commissioners shall have signed and allowed the said assessments, and before such allowance may correct and amend the same, if he or they shall see fit; and every person in whose custody any lists or assessments shall be, shall, upon the request of any such surveyor or inspector, produce and deliver the same into his custody for the purposes of this act, taking his receipt for the same; and such surveyor or inspector is hereby authorized to take charge of the same, until he shall have taken such copies of or extracts from the same, as may be necessary for his and their better information. *f. 63.*

Lists to be delivered to the surveyors when required, and assessments to be produced to them for the purpose of taking copies or extracts.

(a) The regulations of this act are stated *ante*, Sect. I. of this title.

If any surveyor or inspector shall, after any such lists or assessments shall be so respectively made out, signed, and allowed as aforesaid, find or discover upon examination or otherwise, that any person who ought to be charged with any of the said duties, shall have been omitted to be charged therewith, or shall have been under-rated, or that any person liable to any of the said duties, in respect of which such lists or declarations ought to have been delivered, hath not made the return hereby required, or hath omitted any person, description, article, or thing, which ought to have been returned, so that he or she shall not have been charged to the amount which ought to be paid by him or her, or that any exemption shall have been claimed which is not hereby allowed; then the said surveyor or inspector shall certify the same in writing under his hand, together with an account of every default and omission, with the name or description of the person or thing not returned or omitted, to the best of his knowledge and belief, and the full amount of the duty which ought to be paid by way of surcharge to any two or more commissioners for executing this act, in order to have the same rectified in the said assessment; and such commissioners are, upon delivery of any such certificate, and upon oath being first made that the notice herein-after directed was given to, or left in writing at the dwelling-house or other place of abode of the person so surcharged, required to sign and allow the said surcharges, and to cause the said assessments to be rectified, and the said duties to be levied accordingly. And the inspectors and surveyors shall give to every person so surcharged, or leave at his or her last or usual place of abode, notice in writing of such surcharge, and of the amount for which he or she shall have been charged by virtue of such certificate, which surcharges the said inspectors and surveyors are hereby empowered to make from time to time, and at such times as is directed by the 43 G. 3. c. 99.; and such surcharges shall be made in the full amount of the duty which ought to be charged by virtue of such certificate, in respect of the duties contained in schedules (A) and (B), and in double the amount of the duty which ought to be charged by virtue of such certificate, in respect of any of the duties contained in the other schedules hereto annexed. *Ibid.*

After assessments are allowed, the surveyor to certify omissions to the commissioners by way of surcharge.

Proceedings upon such charges.

And no assessment or surcharge made or to be made by any assessors, surveyors, or inspectors, by virtue hereof, shall be impeached or affected by reason of any mistake or variance in the christian or surname of any person liable to any of the duties hereby imposed, or of any servant or other male person herein described, or in the description of their employments, nor by reason of any mistake in the description

Assessment or surcharges not to be impeached on account of mistakes in the names or descriptions.

of any carriage, horse, mule, or dog, as required by this act, or the amount of the duty surcharged, whether such mistake or variance shall appear in the notice and certificate to be delivered or made in such case, or in either of them; provided the notice or surcharge be delivered to, or left at the place of abode of the person intended to be so surcharged, according to the directions of this act: and the person intended to be described, shall be liable to the said duties, or shall be a servant of or otherwise employed by the person so surcharged, or the carriage, horse, mule, or dog, intended to be described, shall belong to, or the duty intended to be described, shall be chargeable on such person or persons. *f. 64.*

Double duty may be avoided by making a return before the day of appeal with an affidavit annexed.

Surveyor, if satisfied therewith, to certify the same to the commissioners, and the party to be charged accordingly at the single duty.

And any person to whom such notice of surcharge shall be given, on occasion of his having neglected to make the return required at any time previous to the time appointed for hearing appeals next after the delivery of such notice, may make out and deliver to the surveyor or inspector who shall have delivered the notice of surcharge, a true and complete list or declaration in the forms hereby directed, and as the case may require; so that he or she may, from such last-mentioned lists or declarations so delivered, be charged to the said duties the full sum at which he or she ought to be charged by virtue of this act. But to every such list or declaration, there shall be annexed an affidavit in writing to the effect hereinafter mentioned; and if the surveyor or inspector shall be satisfied therewith, then he shall certify such return and affidavit to two or more commissioners, with the amount of the duty to be charged, who shall thereupon cause the assessment to be made according to such certificate, and the same rate of duty as set forth in the schedules hereunto annexed, to be charged on the person making such return without further trouble or delay. *f. 65.*

If the surveyor is dissatisfied, he is to state his objection to the commissioners, and the assessment is then to be made in the double duty, subject to appeal.

But, if upon examination of such list or declaration, or such affidavit, the surveyor or inspector shall see just cause to object thereto, he shall thereupon certify such return and affidavit, together with the cause of his objection, to two or more commissioners, who shall thereupon cause the assessment to be made according to such last-mentioned certificate, in double the amount of the duty at which such person shall be surcharged; and from which charge no abatement shall be made on any pretence, unless on appeal as hereinafter is directed, of which certificate, notice shall be given by the surveyor to the person to be charged thereby. *Ibid.*

Every such affidavit shall allege and declare in substance, or to the effect as follows, (that is to say;)

" That the deponent was not at his or her dwelling house or other place of abode, at the time appointed for the fixing or delivery

Form of affidavit in cases of surcharge where no as been

“ delivery of general or other notice, for making a return as required by this act, nor between that day and the time limited for making such return to the assessor, and that he or she had not any such notice; or, that he or she was disabled by sickness from making such return; or, that the non-delivery of such return was occasioned by the following unavoidable mistake or accident, without any intention to defraud the revenue; *vide licet* [Here set forth the cause of such default] and that the return annexed to this affidavit is a full, perfect, and complete return of all matters and things required of the said deponent by this act, to the best of his or her judgment:

Which affidavit may be taken before any one or more of the commissioners acting for the place where the surcharge shall be made, or where the party surcharged shall reside, and shall be signed by the party making the same. *f. 66.*

And it shall be lawful for any person to whom such notice of surcharge shall be given on occasion of his or her having omitted, in the return made, any person, description, article or thing, which ought to have been contained therein, or of having claimed any exemption not allowed by this act, to amend such return, by delivering to the surveyor or inspector, a new return according to the directions before given, to which an affidavit shall be annexed to the effect hereinafter mentioned; and the surveyor or inspector shall be at liberty to certify his satisfaction therewith, or his objection thereto, in the manner herein-before directed, according to which certificate the party surcharged shall be assessed in the single duty to the full amount, or in the double duty on the amount of the duty so surcharged, as the case may require, subject to the like power of appeal from the double duty, and to the like proceedings, before given and directed. *f. 67.*

And every such last-mentioned affidavit shall allege and declare the grounds and cause of each omission, or claim of exemption, as well to matter of law as fact, whether the deponent shall persist in such omission or claim, or not, and also, that the return annexed to this affidavit is a full, perfect, and complete return of all matters and things required of the said deponent by this act, to the best of his or her judgment and belief, and that such omission or claim was not made with intention to defraud the revenue; which said last-mentioned affidavit shall be made and signed in the manner before directed. *f. 68.*

But an appeal may be made from any assessment, or surcharge as aforesaid, and heard and determined under the regulations of the 43 G. 3. c. 99.: and such appeal may be made in the like cases as are therein mentioned, and also in the case herein-after mentioned. *f. 69.*

If any persons shall think themselves overcharged or over-rated by any certificate of any inspector or surveyor, or by any assessor

On surcharges for any omission in a return, the double duty may be avoided by making a new return with an affidavit annexed.

Proceedings thereon.

Form of affidavit in cases of surcharge for defective returns.

Appeals how to be heard and determined.

Persons overcharged may appeal to the assessor.

commissioners. On hearing appeals, the appellant to produce lists when required, and to verify the same upon oath.

assessment to be made in pursuance of such certificate, they may appeal to the said commissioners in such manner as they are authorized to appeal from any original assessment or surcharge by the regulations of the 43 G. 3. c. 99.; and upon hearing any such appeal, or the appeal against any such original assessment or surcharge, the appellant shall in all cases, where a list or declaration shall or ought to have been delivered by him to the assessor, produce before the said commissioners a true and complete list and declaration as the case may require, and verify the same on his or her oath, or affirmation. *f. 70.*

Double duty to be assessed upon surcharges confirmed on appeal, unless in certain cases.

The assessment shall be made in the double duty upon every surcharge confirmed on appeal, or allowed by the commissioners upon the certificate of the surveyor or inspector as aforesaid, except where sufficient returns upon affidavit have been made: which sum shall be added to the assessment, and inserted in the duplicates of the collectors, and collected and levied therewith, and paid to the receiver general. But, upon every such appeal, if the commissioners shall be of opinion that there was any just cause of controversy on the part of the appellant, and that the alleged default, neglect, omission, or claim, was not wilfully made, and with intention to defraud the revenue, the commissioners who shall have determined the said appeal may, although they shall have confirmed or allowed the surcharge, at the same time remit and strike off any part of the double duty, not exceeding one moiety of the charge above the rates of duty prescribed by the said schedules; and the assessor, surveyor, or inspector, so making such surcharge, is entitled to, and shall receive for his own use, from the receiver general to whom the duties shall be paid, the overplus of the sum so charged above the said rates of duty, which overplus any two or more of the commissioners for executing this act, who shall have confirmed such surcharge, shall, at the same meeting, certify under their hands to the commissioners of taxes, whose certificate shall be a warrant to the receiver general to pay the same. *f. 71.*

Penalty on inspector or surveyor making a false or vexatious charge or surcharge.

And if any inspector or surveyor shall wilfully make any false and vexatious surcharge, or wilfully deliver or cause to be delivered to the commissioners for executing this act any false and vexatious certificate of charge, he shall forfeit to the party aggrieved not exceeding 50*l.* to be recovered by action in any court of record at *Westminster*, for offences committed in *England*, and in the court of great sessions, for offences committed in *Wales*, with full costs of suit. *f. 72.*

Not to defeat any action against surveyor, for corrupt, vexatious, or illegal practices.

But nothing herein-before contained, nor any suit by the party aggrieved, in pursuance of this act, shall be construed to affect or defeat any action or information brought or to be brought

brought against any surveyor or inspector, in pursuance of the 43 G. 3. c. 99. for any corrupt, vexatious, or illegal practices in the execution of his office: and the judge, before whom such inspector or surveyor shall have been convicted of such offence, by indorsement on the postea, or the court before whom such person shall be convicted, may mitigate the penalty at his or their discretion. *Ibid.*

Assessors, inspectors, or surveyors, and appellants, who may be dissatisfied with the determination of the commissioners, may require the commissioners to state specially, and to sign the case upon which the question arose, together with the determination thereupon; which case they, or the major part of them then present, are hereby required to state and sign accordingly, and to cause the same to be delivered to the party making such request as aforesaid, to be by him or her transmitted to one of the justices of the court of king's bench or common pleas, or to one of the barons of the exchequer: and if his opinion shall be in support of any surcharge, the assessment shall be in the double duty, or shall be mitigated as shall have been determined on the appeal. But the instalment on assessments, due previously to the opinion of the judge being certified, shall be collected as allowed by commissioners, and levied as if no such case had been transmitted. *f. 73.*

But by 45 G. 3. c. 71. *f. 3.* It is enacted that upon proof given to the commissioners for the affairs of taxes of payment of any assessment, which shall or ought to be reversed according to the opinion of one of his majesty's judges obtained and certified in pursuance of the said act, it shall be lawful for the said commissioners and they are hereby required to direct the receiver general to whom the receipt of such monies shall appertain, to repay out of any monies in his hands so much as shall appear to the said commissioners for the affairs of taxes to have been over-paid on such assessment, and the order of the said commissioners for the affairs of taxes shall be a sufficient authority to such receiver general for such payment, and the same shall be allowed in his accounts.

And if, according to the opinion of any judge, to whom any case shall, at the request of the appellant, be transmitted in pursuance of any directions in this act, the charge or surcharge, upon which the question contained in such case shall have arisen, be confirmed and established, the person so charged or surcharged shall, for the costs attending the same, pay to his majesty 40s. in addition to the assessment or surcharge so confirmed and established; which costs shall be added to such assessment, and levied and collected therewith, and as part of the duties so assessed. 43 G. 3. c. 161. *f. 76.*

Assessors, &c. being dissatisfied with commissioners' determination, may demand a case, for the opinion of a judge.

Proceedings thereon.

Tax office may order receiver-general to repay money over-paid on assessments.

Appellant having demanded a case, for the opinion of the judges, to be subject to costs, if the charge upon him be confirmed.

commissioners. On hearing appeals, the appellant to produce lists when required, and to verify the same upon oath.

Double duty to be assessed upon surcharges confirmed on appeal, unless in certain cases.

Commissioners may remit any part of the double duty not exceeding one half; and the overplus above the rates of duty to be paid to inspectors or surveyors by receivers general.

Penalty on inspector or surveyor making a false or vexatious charge or surcharge.

Not to defeat any action against surveyor, for corrupt, vexatious, or illegal practices.

assessment to be made in pursuance of such certificate, they may appeal to the said commissioners in such manner as they are authorized to appeal from any original assessment or surcharge by the regulations of the 43 G. 3. c. 99.; and upon hearing any such appeal, or the appeal against any such original assessment or surcharge, the appellant shall in all cases, where a list or declaration shall or ought to have been delivered by him to the assessor, produce before the said commissioners a true and complete list and declaration as the case may require, and verify the same on his or her oath, or affirmation. *f. 70.*

The assessment shall be made in the double duty upon every surcharge confirmed on appeal, or allowed by the commissioners upon the certificate of the surveyor or inspector as aforesaid, except where sufficient returns upon affidavit have been made: which sum shall be added to the assessment, and inserted in the duplicates of the collectors, and collected and levied therewith, and paid to the receiver general. But, upon every such appeal, if the commissioners shall be of opinion that there was any just cause of controversy on the part of the appellant, and that the alleged default, neglect, omission, or claim, was not wilfully made, and with intention to defraud the revenue, the commissioners who shall have determined the said appeal may, although they shall have confirmed or allowed the surcharge, at the same time remit and strike off any part of the double duty, not exceeding one moiety of the charge above the rates of duty prescribed by the said schedules; and the assessor, surveyor, or inspector, so making such surcharge, is entitled to, and shall receive for his own use, from the receiver general to whom the duties shall be paid, the overplus of the sum so charged above the said rates of duty, which overplus any two or more of the commissioners for executing this act, who shall have confirmed such surcharge, shall, at the same meeting, certify under their hands to the commissioners of taxes, whose certificate shall be a warrant to the receiver general to pay the same. *f. 71.*

And if any inspector or surveyor shall wilfully make any false and vexatious surcharge, or wilfully deliver or cause to be delivered to the commissioners for executing this act any false and vexatious certificate of charge, he shall forfeit to the party aggrieved not exceeding 50*l.* to be recovered by action in any court of record at *Westminster*, for offences committed in *England*, and in the court of great sessions, for offences committed in *Wales*, with full costs of suit. *f. 72.*

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Assessors, inspectors, or surveyors, and appellants, who may be dissatisfied with the determination of the commissioners, may require the commissioners to state specially, and to sign the case upon which the question arose, together with the determination thereupon; which case they, or the major part of them then present, are hereby required to state and sign accordingly, and to cause the same to be delivered to the party making such request as aforesaid, to be by him or her transmitted to one of the justices of the court of king's bench or common pleas, or to one of the barons of the exchequer: and if his opinion shall be in support of any surcharge, the assessment shall be in the double duty, or shall be mitigated as shall have been determined on the appeal. But the instalment on assessments, due previously to the opinion of the judge being certified, shall be collected as allowed by commissioners, and levied as if no such case had been transmitted. *f. 73.*

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And if, according to the opinion of any judge, to whom any case shall, at the request of the appellant, be transmitted in pursuance of any directions in this act, the charge or surcharge, upon which the question contained in such case shall have arisen, be confirmed and established, the person so charged or surcharged shall, for the costs attending the same, pay to his majesty 40s. in addition to the assessment or surcharge so confirmed and established; which costs shall be added to such assessment, and levied and collected therewith, and as part of the duties so assessed. 43 G. 3. c. 161. *f. 76.*

Assessors, &c. being dissatisfied with commissioners' determination, may demand a case, for the opinion of a judge.

Proceedings thereon.

Tax office may order receiver general to repay money over-paid on assessments.

Appellant having demanded a case, for the opinion of the judges, to be subject to costs, if the charge upon him be confirmed.

When cases, transmitted to a judge, shall have been obtained by the inspectors or surveyors, and shall not be returned within the time limited for delivering the duplicates, the commissioners to make separate assessments and duplicates.

But whenever any case to be transmitted to any judge for his opinion thereon, in the manner hereby directed, shall have been obtained by any inspector, surveyor, or assessor, by reason of any surcharge, or any certificate not being allowed by the commissioners for executing this act, and the same shall not be returned within the time hereby limited for delivering the duplicates to the receiver-general, and the king's remembrancer, whereby the passing of the accounts of the receivers-general may be impeded, the commissioners are hereby required to cause to be made out the duplicates of the several assessments required to be delivered to the respective receivers-general, and to the king's remembrancer, exclusive of the sums so depending, to the end that there may be no delay in paying into the receipt of the exchequer the sums assessed and fully charged. And upon the return of such opinion, whenever the same shall happen, the commissioners shall cause separate assessments to be made out, including therein the names of the party in the case so transmitted, and the amount of the sums wherewith the party ought to be charged, according to such opinions so returned; and the sums so assessed shall be levied in like form and manner as any assessments may be levied, and be paid to the respective receivers-general; and shall also cause true supplemental duplicates of all such separate assessments to be made out as soon as may be, and delivered unto the respective receivers-general, and also transmitted into the office of the king's remembrancer, for which supplemental duplicates, the proper officers shall give acquittances *gratis*, so as every of them may be duly charged to answer the whole of their respective collections and receipts. *§. 75.*

Commissioners on application made to them, to grant relief to persons who have been assessed in different places for the same cause and on the same account.

If any person assessed under this act in one parish or district to any of the said duties, shall be again assessed in another parish or district on the same account, the commissioners for this act within such latter parish or district, or the majority of them present, on any application for the purpose, are hereby required to alier any assessment of such person so assessed twice, on proof thereof given before them of assessment made on the same account in another place, and in what place specifically, and that he hath paid or is liable to pay the duties for the same upon such assessment, which proof shall be made by the oath or affirmation of the party, or some credible witness, that the several assessments are for the same cause and on the same account, and by the production of either a copy or certificate of the first assessment, signed by two or more commissioners of the district for which such first assessment shall have been made, to be verified on oath or affirmation as aforesaid; which copy or certificate the clerk of the said commissioners shall deliver *gratis* to the party requiring the same,

same, or in default of such copy or certificate then the proof thereof shall be made by other evidence on oath or affirmation, to the satisfaction of the commissioners present, or the majority of them; and if any person shall, by any fraudulent contrivance whatever, procure any assessment to be altered, with intent to defraud his majesty of the duties, or any part thereof, he shall, for every offence, forfeit 50*l*. *s*. 76.

And no letters patent, already granted or to be granted by his majesty to any persons, cities, boroughs, or towns corporate within this realm, of any manner of liberties, privileges, or exemptions from subsidies, tolls, taxes, assessments, or aids, shall exempt any of them, or any of the inhabitants of the same, from the charge of any of the said duties; and all non-obstantes in such letters patent made in bar of this act, are void. *s*. 77.

No letters patent to be an exemption from the duties.

(4.) *Provisions for facilitating payment of the duties.*

And every assessment to be made of the said duties in pursuance hereof, shall be in force for one whole year, commencing from the 5th of *April* in the year in which the same shall be made, and ending on the 5th of *April* then next following, and the several duties shall be paid by quarterly instalments on the 20th of *June* for the quarter commencing from the 5th of *April* and ending on the 5th of *July*, the 20th of *September* for the quarter commencing from the 5th of *July* and ending on the 10th of *October*, and the 20th of *December* for the quarter commencing from the 10th of *October* and ending on the 5th of *January*, and the 20th of *March* for the quarter commencing on the 5th of *January* and ending on the 5th of *April* in every year, the first payment thereof to be made on the 20th of *June* 1804; and any two or more of the respective commissioners shall as soon as the assessment shall be made, issue out and deliver to the respective collectors their warrants for the speedy and effectual levying and collecting the said duties as the same shall become payable, by such quarterly instalments; and such part thereof as cannot be so levied and collected may be recoverable as a debt upon record to the king, with full costs; and when so recovered, the duties shall be paid to the receiver-general, in aid of the parish or place answerable for the same. *s*. 23.

Assessments to be in force for one whole year, from the 5th *April*, and the duties to be paid by quarterly instalments.

Commissioners to issue warrants to collectors, levying the duties.

Arrears, which cannot be so levied, to be recoverable as debt upon record.

If any persons assessed to any of the duties hereby made payable shall remove out of the limits of the collectors who shall be charged to collect the same, without first discharging, or causing to be discharged, all the duties charged upon them which shall then be due, and without leaving within such limits sufficient goods whereon the duties in arrear may

Penalty on persons removing without payment of duties.

which the original assessment was made of the same duties, in such manner as any assessment may hereby be raised and levied. *f. 56.*

Persons not to be assessed to poor's rate or highway duty, for any duties hereby made payable.

Payment of duties no title to settlement.

And no person shall be assessed to the poor's rate or highway for or in respect of any duties hereby made payable; but the owners and occupiers shall continue rateable to those rates and duties. Nor shall payment of the duties hereby imposed, entitle the party paying them in any parish, to a settlement in such parish or place. *f. 58, 59.*

(5.) General regulations relative to the execution of the act.

Inspectors, &c. under the regulation act, to act under this act.

The several inspectors or surveyors, authorized under the 43 G. 3. c. 99. shall have the survey and inspection of the duties hereby made payable, and shall take accounts of the several dwelling-houses, servants, carriages, horses, mules, and dogs kept by any persons whatsoever, and of the duties chargeable in respect thereof, and shall examine and inspect the assessments or certificates thereof made, and execute all things belonging to the same, according to the powers vested in them hereby and by the 43 G. 3. c. 99. respectively. *f. 9.*

No inspector to act as a commissioner.

But no inspector, now or hereafter to be appointed, shall act as a commissioner in any thing concerning this act. *Ibid.*

Commissioners, &c. may inspect parish books, and take copies thereof.

And any two or more commissioners, or any one or more surveyors, inspectors and assessors, or any persons authorized by any of them, may at all reasonable times inspect or take copies or extracts from any books kept by any parish officers or other persons concerning the poor-rates, or any other public taxes, rates, or assessments in any place within the limits for which they shall be appointed. And if any persons, in whose custody or power any such books shall be, shall refuse to permit such inspection, or such copies or extracts to be made, or to attend the commissioners with their books when required, the offender shall forfeit, not exceeding 10*l.* for every offence. *f. 16.*

Commissioners of the treasury to appoint salaries to officers, and to pay incidental expenses.

Out of the monies that shall from time to time arise from the duties hereby made payable, any three or more of the said commissioners of the treasury, or the high treasurer for the time being, may appoint such salaries and allowances for the service and labour of the surveyors, inspectors, and other officers to be employed in executing this act, and otherwise in relation thereto, and also may discharge such incidental charges and expenses as shall necessarily attend the execution hereof, as they shall respectively think reasonable. *f. 78.*

Allowances to the receivers-general, collectors, and clerks to commissioners.

And every receiver-general shall have an allowance of 2*d.* in the pound, for all monies paid by him into the exchequer; and every collector shall have three-pence in the pound,

pound, for what money he shall pay the receiver-general, his deputy or deputies, within the time limited by the 43 G. 3. c. 99.; and for the careful writing and transcribing the said assessments, warrants, estreats, and duplicates, in due time, and for the speedy and effectually executing all matters and things directed to be performed under the said commissioners, the clerk of the respective commissioners, who shall perform the same within the respective times limited by this act, shall, by warrant under the hands of two or more commissioners, receive from the respective receivers-general, their deputy or deputies, 1½d. in the pound, of all such monies as he or they shall have received by virtue of such warrants or certificates, who are hereby appointed to pay the same accordingly, provided this act be carried into execution in due time, and in an effectual manner, for the district in which he shall be appointed clerk, and all warrants or estreats be made out, and the duplicates delivered to the receiver-general, and to the king's remembrancer, within the times limited by this act, and not otherwise; and no other person except the person appointed to be his assistant, shall, under any pretence whatever, be entitled to or receive any part of the reward hereby given to such clerk; the amount whereof shall be apportioned and settled by the respective commissioners; nor shall any clerk or assistant, under any pretence whatever, demand, take, or receive any fee, gratuity, or perquisite, for any thing to be done by him or them, by virtue of this act, from any person or persons, except the receiver-general, his deputy or deputies.

No person to receive any part of the clerk's poundage, except himself or his assistant.

Clerk not to take any fee or gratuity.

And the collectors shall pay over the whole of the sums by them received by virtue of this act, in manner and upon the days of payment following; that is to say, the same shall be paid quarterly unto the respective receivers-general, or their respective deputies, within 20 days after the days appointed for the payment thereof, at such places as shall be appointed by such receivers-general, and the said receivers-general shall cause the same to be paid into the receipt of the exchequer at *Westminster*, before the end of the quarter in which the same shall be received, according to the provisions of the 43 G. 3. c. 99. s. 81.

Payment of duties by the collectors to the receivers-general, and by the receivers-general into the exchequer.

And all monies arising from the said duties (the necessary charges of raising and accounting for the same excepted) shall, from time to time, be paid into the exchequer at *Westminster*, distinctly and apart from all other branches of the public revenues; and there shall be provided and kept in the office of the auditor of the said receipt, books, in which all the monies arising from the said duties, and paid into the said receipt as aforesaid, shall be entered separate from all

Duties to be carried to the consolidated fund.

other monies paid and payable to his majesty, upon any account whatever; but, nevertheless, without entering the different proportions thereof, in separate accounts, as directed by any act or acts hereby repealed; and the monies so paid, shall be carried to and made part of the consolidated fund of *Great Britain*. *f* 82.

Accounts to be kept of the monies arising from the duties contained in each schedule.

And whereas by divers of the acts hereby repealed, it is provided that the new or additional duties thereby granted, should, during the space of ten years, then next ensuing, be kept in the office of the auditor of the said receipt of exchequer, in a book or books, together with such other duties as were respectively granted, for the purpose of making permanent additions to the publick revenue, and of defraying any charges occasioned by certain loans made and stocks erected by authority of parliament, and separate from all other monies paid or payable to the king on any account whatever; and whereas it is expedient, that the whole of the duties contained in each schedule, should be entered in one account; it is therefore enacted, that after the period appointed for the commencement of this act, the monies arising from the duties contained in the same schedule, shall be paid into the said receipt in one sum, and the account thereof shall be there kept in one sum; and the monies arising from each separate schedule, marked (A. B. C. D. E. F. G. H. I. and K.) shall be paid into the said receipt, separate and distinct from each other; and separate accounts shall be there kept of the same. *f* 83.

Limitation of actions.

And if any action be brought against any persons, for any thing done in pursuance hereof, or of any act for granting duties to be assessed under the regulations of this act, such action shall be commenced within six calendar months next after the fact committed; and shall be laid in the county or place where the cause of complaint did arise; and no writ or process shall be sued out for the commencement of such action, until one calendar month next after notice in writing shall have been delivered to, or left at the usual place of abode of such person or persons, by the attorney for the intended plaintiffs; in which notice shall be explicitly contained the cause of action, the name and place of abode of the intended plaintiffs, and of his and their attorney; and no evidence shall be given on the trial of such action or suit of any cause of action, than such as is contained in such notice; and the intended defendants to whom such notice shall have been delivered, may at any time before the expiration of such calendar month tender amends to the intended plaintiffs, his or their attorney; and in case such amends are not accepted, may plead such tender in bar to any action to be brought against them,

Tender.

them, grounded on such notice, and the defendants in every such action, may plead the general issue, and also such tender, and any other plea, with leave of the court in bar of such action; and may give this act and the special matter in evidence at any trial to be had thereupon; and if the jury shall find for the defendant in any such action, or if the plaintiffs shall be nonsuited or discontinue their action, after the defendant or defendants shall have appeared; and if, upon demurrer, judgment shall be given against the plaintiffs, the defendants shall have treble costs, and have the like remedy for the same as any defendant hath in any other case to recover costs by law. *f. 86.*

General issue.

Treble costs.

And every action which shall be brought against any collectors appointed under this act, shall be defended by the commissioners acting for the division or place where such collector shall have been appointed, and the costs attending the same, as also every other action to be brought by or against commissioners or collectors in pursuance hereof, or for any thing done in pursuance of this act, or any act, for granting duties to be assessed under the regulations hereof, shall be defrayed by an assessment made on the parish or place for which such collector or collectors shall have been appointed, in a just proportion to the amount of the duties payable under this act, on the respective persons charged to the same in the assessment to be made next after the time when the said costs and charges shall have been incurred. *Ibid.*

Expenses of actions, brought by or against commissioners or collectors, to be defrayed by an assessment on the parish.

All pecuniary penalties and forfeitures hereby imposed may be sued for, and recovered and applied in the manner and form directed by the 43 G. 3. c. 99. in regard to the pecuniary penalties thereby imposed. *f. 80.*

Recovery of penalties.

(6.) *Allowances in respect of children.*

By the 46 G. 3. c. 84. Every person having more than two children born in lawful wedlock, and *bonâ fide* maintained at the expence of such person, shall for every such child above two be allowed at the rate of 4 per cent on the amount of all the assessments on such person by virtue of the 43 G. 3. c. 161. 45 G. 3. c. 13. 46 G. 3. c. 78. in case the total amount of all the assessments shall be under 40l. in any one year, which allowance shall be made annually out of the duties so charged, at any time in the year of assessment, on delivery of a declaration in writing, containing the whole number of such children, and their respective names and places of residence, and which of them are of the family, or reside elsewhere,

By *f. 2.* This provision shall extend to children by a former marriage, either of the husband or wife.

But

But by *f. 3.* It is not to extend to children who shall be personally charged to the said duties, or be householders.

By *f. 4.* The commissioners acting under the said acts, shall grant these allowances, and for that purpose exercise the powers granted by the 43 G. 3. c. 161.

By *f. 5.* The person claiming such allowances shall return the whole number of articles chargeable on him under the said acts in the parish or place where he shall claim. If he have two or more dwelling houses in different parishes or places, the duty charged in respect of any such dwelling house situate elsewhere than where such claim shall be made shall be certified by two commissioners respectively acting where they are situate, and excepting there be such certificate, no allowance shall be made on the amount of any duty not charged in the assessment of the place where it is claimed: nor shall it be made unless the person claiming shall at the time of making the claim deliver a declaration in writing to the assessor of the place where he makes the claims, declaring the parish or place and county, riding or division in which his dwelling house is situate.

By *f. 6.* Every person so claiming shall deliver to the assessor of the place where the claim shall be made, for every year within the time when the assessors are required to deliver their certificates of assessment under the 43 G. 3. c. 161. a declaration as aforesaid: to which any inspector or surveyor acting under this act shall have access to take copies or extracts therefrom; and if the inspector surveyor or assessor shall not object before all the appeals for that year are determined, the allowances shall be granted for that year in the place where the claim is made, upon the duties of that place added to the duties certified as aforesaid; but if they object, and give notice in writing to the claimants, the merits of the case shall be heard on appeal as is directed in 43 G. 3. c. 161.

By *f. 7.* Persons claiming without making such declaration, or making use of any fraud in such claim, or in obtaining such allowance, or delivering any false declaration with intent to obtain such allowance, or fraudulently causing to be certified any amount of duty not actually charged, or making any second claim for the same cause shall forfeit 100*l.*; to be recovered as any penalties or forfeitures may by the said acts.

By *f. 8.* The amount of every allowance so granted shall be set down in figures and remain on the certificate of assessment for the place where such claim is made, under the head of "allowances for children," and the whole of such allowance shall be granted out of the duties charged in the said place, by deducting the sums allowed from the amount of duty

duty there charged; and the sum to be paid, after deducting the whole of the said allowance, shall be set down as the net duty to be paid by such claimant in the said place, and the duplicate thereof to be delivered to the collector shall be made or amended so that the net duty only, after deducting such allowance, may remain to be paid on the said assessment.

(7.) *Duties; and herein of those imposed.*

- (A.) *On Windows.*
- (B.) *On Houses.*
- (C.) *On Servants.*
- (D.) *On Carriages.*
- (E.) *On Horses.*
- (F.) *On Horses, &c. not charged under Schedule (E.) and on Mules.*
- (G.) *On Dogs.*
- (H.) *On Horse Dealers.*
- (I.) *On Hair Powder.*
- (K.) *On Armorial Bearings.*
- (L.) *Game Licenses.*
- (M.) *Exemptions.*

Note.—As by the last act (48 G. 3. c. 55.) the new duties thereby imposed are collected under and subject to the regulations of the former acts (as before mentioned,) those parts of the several schedules of the 43 G. 3. c. 161. which contain provisions for the carrying those schedules into execution, are retained here, and will be found at the conclusion of the corresponding schedules of the 48 G. 3. c. 55.

Schedule (A.) 48 G. 3. c. 55.

Number of windows according to which the duties shall be charged.

Duties.

	£.	s.	d.
Not more than 6 windows or lights (except in such houses which shall be worth the rent of 5 <i>l.</i> by the year, and shall be charged to the duty mentioned in schedule (B.), according to the rent thereof)	0	6	6
Not more than 6 windows or lights, if of the value before mentioned, and charged to the said duty accordingly	0	8	0
7 windows or lights	1	0	0
8 - - - Do.	1	13	0
9 - - - Do.	2	2	0

Number of windows according to which the duties
shall be charged.

Duties.

Not more than			£. s. d.		
10	windows or lights	-	-	2	16 0
11	- Do.	-	-	3	12 6
12	- Do.	-	-	4	9 6
13	- Do.	-	-	5	6 6
14	- Do.	-	-	6	3 6
15	- Do.	-	-	7	0 0
16	- Do.	-	-	7	17 0
17	- Do.	-	-	8	14 0
18	- Do.	-	-	9	10 6
19	- Do.	-	-	10	7 6
20	- Do.	-	-	11	4 6
21	- Do.	-	-	12	1 0
22	- Do.	-	-	12	18 0
23	- Do.	-	-	13	15 0
24	- Do.	-	-	14	11 6
25	- Do.	-	-	15	8 6
26	- Do.	-	-	16	5 6
27	- Do.	-	-	17	2 0
28	- Do.	-	-	17	19 0
29	- Do.	-	-	18	16 0
30	- Do.	-	-	19	12 6
31	- Do.	-	-	20	9 6
32	- Do.	-	-	21	6 6
33	- Do.	-	-	22	3 0
34	- Do.	-	-	23	0 0
35	- Do.	-	-	23	16 6
36	- Do.	-	-	24	13 6
37	- Do.	-	-	25	10 6
38	- Do.	-	-	26	7 0
39	- Do.	-	-	27	4 0
40 to 44	Do.	-	-	28	17 6
45 - 49	Do.	-	-	31	13 6
50 - 54	Do.	-	-	34	10 0
55 - 59	Do.	-	-	37	6 0
60 - 64	Do.	-	-	39	15 6
65 - 69	Do.	-	-	42	0 6
70 - 74	Do.	-	-	44	5 0
75 - 79	Do.	-	-	46	10 0
80 - 84	Do.	-	-	48	15 0
85 - 89	Do.	-	-	51	0 0
90 - 94	Do.	-	-	53	4 6
95 - 99	Do.	-	-	55	9 6
100 - 109	Do.	-	-	58	17 0
110 - 119	Do.	-	-	63	6 6
120 - 129	Do.	-	-	67	16 6

Number of windows according to which the duties shall be charged.

Duties.

			£.	s.	d.
130 to 139 windows or lights	-	-	72	6	0
140 - 149 Do.	-	-	76	16	0
150 - 159 Do.	-	-	81	5	6
160 - 169 Do.	-	-	85	15	6
170 - 179 Do.	-	-	90	5	0
180 and upwards Do.	-	-	93	2	6
And for every such dwelling house which shall contain more than 180 windows or lights, for every window or light exceeding the number of 180					
	-	-	-	0	3 0

Rules.

I.—The said several duties to be charged annually in respect of the windows or lights in every dwelling house, with the household and other offices herein enumerated.

II.—All skylights, and all windows or lights however constructed, in staircases, garrets, cellars, passages, and all other parts of dwelling houses, to what use or purpose soever applied, and whether such windows or lights shall be in the exterior or interior parts of such dwelling houses to be charged to the said duties.

III.—Every window or light in any kitchen, cellar, scullery, buttery, pantry, larder, washhouse, laundry, bakehouse, brewhouse, and lodging room, belonging to or occupied with any dwelling house, whether the same shall be within or contiguous to or disjoined from the body of such dwelling house, shall be charged to the said duties.

IV.—The said duties to be charged yearly upon the occupier or occupiers of the houses, cottages, or tenements, in respect whereof the said duties shall be charged, and to be in force for one whole year, from the 5th day of *April* in the year in which the same shall be charged, to be levied on them, or on their respective executors or administrators except as herein after provided.

V.—Where any change in the occupation of any house, cottage, or tenement, shall take place after the assessment shall be made, then the said duties shall be levied upon and paid by the occupier landlord or owner for the time being, or on both or all of them, according to their times or possession thereof, without any new assessment, notwithstanding such change in the occupation for the year that such house shall have been assessed: Provided that where a tenant shall quit the same, on the determination of the lease or demise

after

after an assessment made, and shall have given notice thereof to the assessor, the duty shall be discharged by the commissioners for this act for the remainder of that year, in case it shall appear to them at the end of such year, that such house &c. shall have continued wholly unoccupied during the remainder of such year.

VI.—Where any dwelling house is or shall be let in different apartments, tenements, lodgings, or landings, and shall be inhabited by two or more persons or families, the same shall nevertheless be charged as if inhabited by one person or family only; and the landlord or owner shall be deemed and taken to be the occupier, and shall be charged with the said duties: Provided, that where the landlord shall not reside within the limits of the collector, or the same shall remain unpaid by him for twenty days after the same is due, the duties so charged may be levied on the occupier or occupiers respectively, and such payment shall be deducted and allowed out of the next payment on account of rent.

VII.—Every house, whereof the keeping is left to the charge of any person or servant, shall be subject to the like duties as if it were inhabited by the owner or by a tenant; and, if such person or servant shall not pay rates to the church and poor, the said duties shall be paid by the respective owners or tenants of the said house.

VIII.—Every distinct chamber or apartment in any of the inns of court, or of chancery, or in any college or hall in either of the universities of Oxford or Cambridge, or any public hospital, being severally occupied, shall be subject to the same duties as if an entire house, which shall be paid by the respective occupiers; provided, that every such chamber or apartment, which shall not contain more than seven windows or lights, shall be charged at the rate of three shillings and sixpence for every such window or light.

IX.—All dwelling rooms in any hall or office whatever, belonging to any person, or to any body politic or corporate, or to any company, lawfully charged with the payment of any other taxes or parish rates, shall be subject to those hereby payable, and be respectively charged as dwelling houses; and the person, &c. to whom the same shall belong, shall be charged as the occupier or occupiers thereof.

X.—When a partition or division between two or more windows or lights, fixed in one frame, is of the breadth or space of twelve inches, the window or light on each side of such partition or division shall be charged as a distinct window or light.

XI.—Every window extending so far as to give light into more rooms, landings, or stories than one, shall be reckoned
and

and charged as so many separate windows as there are rooms, landings, or stories enlightened thereby.

XII.—Every window or light, including the frame, partitions, and divisions thereof, which by due admeasurement of the whole space on the aperture of the wall of the house or building, on the outside of such window or light, shall exceed in height twelve feet, or in breadth four feet nine inches, not being less than three feet six inches in height, shall be reckoned and charged as two windows or lights, except such windows or lights as shall have been made of greater dimensions at any time prior to *April 5, 1785*; except also the windows or lights in such parts of dwelling houses as are used for shops, workshops, and warehouses, and except the windows or lights in the public room of any house licensed to sell wine, ale, or other liquors by retail, which shall be used for the entertainment of guests; and the windows or lights in farm houses especially exempted from the duties in the following schedule marked (B.) or in any dwelling house not chargeable to the duties mentioned in the said schedule.

XIII.—Where any dwelling house shall be divided into different tenements, being distinct properties, every such tenement shall be subject to the same duties as if the same were an entire house, which duties shall be paid by the respective occupiers; provided that every such tenement which shall not contain more than seven windows or lights, shall be charged at the rate of three shillings and sixpence for every such window or light; and every such tenement in *Scotland*, which shall not contain more than seven windows or lights, shall be charged at the rate of three shillings for every such window or light.

Exemptions.

Case I.—Any house belonging to his majesty, or any of the royal family, and every public office, for which the duties heretofore payable have been paid by his majesty or out of the public revenue.

Case II.—Any hospital, charity school, or house provided for the reception and relief of poor persons, except such apartments therein as are or may be occupied by the officers or servants thereof, which shall severally be assessed, and be subject to the said duties as entire dwelling-houses.

Case III.—The windows in any room of a dwelling house, licensed according to law as a chapel for the purposes of divine worship, and used for no other purpose whatsoever.

Provided that every such hospital, charity school, house for the reception and relief of poor persons, or room licensed

as a chapel as aforesaid, shall be brought into charge by the assessor or assessors, or in their default, by the surveyor or inspector, and shall be stated on the certificate of assessments as such; and on due proof of the fact before the commissioners by the assessors, it shall be lawful for the commissioners for executing the said act to discharge such hospital, &c. from the said duties, or such part thereof as is hereby intended to be exempted, in like manner as they are authorized to discharge the assessment on poor persons by this act, but not otherwise.

Case IV.—The windows or lights, in any dairy or cheese room belonging to and occupied with any dwelling house, chargeable with the said duties, although the same shall be part thereof, which shall be used by the occupiers for the purpose of keeping butter or cheese, being their own produce, for sale or private use; provided that the windows or lights in such dairies or cheese rooms shall be made with splines or wooden laths, or iron bars, or wires, and wholly without glass, and that the occupiers of the dwelling houses to which such dairies and cheese rooms belong shall cause to be painted on the outer door thereof, or on the outside of the windows thereof, or one of them, in large Roman letters, the words, "dairy, or cheese room," as the case may require, and shall keep such words so painted distinctly legible, during all such time as such exemption shall be claimed; and provided that such dairies or cheese rooms shall not be ever used to dwell or to sleep in by any person, but shall be wholly kept for the several purposes hereinbefore mentioned; and provided also, that an assessment of all such windows or lights shall be duly made, and the fact be truly returned in the manner directed by this act, in other cases of exemption from the said duties, so that the number of windows so to be exempted may be ascertained, and the exemption be allowed by the commissioners for executing this act.

Provisions by 43 G. 3 c. 161. respecting the exemptions of windows from assessment.

Windows to be stopped up with the same materials as the outside of the house.

And no window or light shall be exempted from the duties hereby made payable, by reason of its having been stopped up, unless such window or light shall be stopped up effectually with stone or brick, or with the same kind of materials whereof that part of the outside walls of such dwelling house, in which such window or light shall have been, doth chiefly consist. *s. 18.*

Windows in the roofs stopped up with the same materials as the

But nothing herein contained shall charge any window or light in the roof of any dwelling house which shall be stopped up on the outside thereof effectually with materials of the

like:

like nature of which the outside of the roof shall chiefly consist, nor any window or light which shall have been stopped up before the commencement of this act, according to the direction of the laws in force at the time of passing this act.

f. 19.

And no window or light shall be newly opened or made in any dwelling house or office belonging thereto; nor shall any window or light, which shall have been stopped up at the time when the assessment in respect of such dwelling house shall be made for the then current year, be restored; nor shall any window or light which has been charged in that year be stopped up, without, in each of the cases, six days previous notice thereof in writing being given by the occupier of such dwelling house, to the surveyor or inspector, or one of them, for the place in which the assessment was made, describing therein the particular situation of every such window or light in such dwelling house, and the number of such windows or lights, if more than one, so to be made, restored, or stopped up, on pain, in case of neglecting to give such notice, of forfeiting 10*l.* for every window or light so newly made, restored, or stopped up; which penalty shall be paid over and above any duty payable in respect of such dwelling house. *f. 20.*

And in case any surveyor or inspector herein mentioned shall receive any notice, or shall otherwise discover that any window or light in any dwelling house, liable to the said duties, hath been newly made or restored as aforesaid, which window or light hath not been charged in the assessment for that year, then such surveyor or inspector shall certify the same in writing under his hand, by way of charge, to any two or more commissioners for executing this act; and shall state in such certificate to what amount the persons liable to the said duties have been under-rated in the assessment for that year; and thereupon, any two or more of the said commissioners shall cause such assessment to be amended, according to such certificate, and the duties to be charged shall be levied thereon, from the commencement of the year in which such window or light shall be made or restored, as if such window or light had been originally included in such assessment: but if the commissioners shall be of opinion that any window or light so restored in any dwelling house, shall have been stopped up at the time when the assessment was made, with intent to evade the payment of the said duties, they shall charge the occupier thereof at the rate of double the sum by which the assessment shall be increased by reason of such certificate: provided, that every such assessment, when amended, shall be liable to be appealed against in such manner as if the same had been originally made. *f. 21.*

And no assessment shall be subject to appeal, nor any

roof, and windows stopped before the commencement of this act.

Windows not to be made, restored, or stopped up without six days previous notice being given to the surveyors, under a penalty of 10*l.*

Surveyors to charge windows newly made, or restored, and omitted in the assessment.

Penalty on stopping up windows to evade payment.

No abatement to be allowed for windows stopped up after the commencement of the year of assessment.

abatement of the duties allowed in any year, by reason of any windows or lights being stopped up, unless it shall be proved, to the satisfaction of the commissioners for executing this act, that the same windows or lights were respectively stopped up according to the directions of this act, previous to the commencement of the year on which the said assessment shall or ought to have been made. *s.* 22.

Schedule (B) 48 G. 3. c. 55. Duties on inhabited dwelling houses.

Value in the pound.

For every such inhabited house with the household and other offices, yards, and gardens, therewith occupied and charged, as are or shall be worth the rent herein-after mentioned by the year, there shall be charged the yearly sums following; *videlicet*,

	<i>£.</i>	<i>s.</i>	<i>d.</i>
5 <i>l.</i> and under 20 <i>l.</i> rent, by the year - -	0	1	6
20 <i>l.</i> and under 40 <i>l.</i> rent, by the year - -	0	2	3
40 <i>l.</i> rent by the year, and upwards - -	0	2	10

Rules.

I.—The said last mentioned duties to be charged annually on the occupier for the time being of every such dwelling house, being of the annual rent of five pounds or upwards, at the respective rates before mentioned, and to be levied on him, or on his executors or administrators, and in like manner, in case of a change in the occupation thereof, as is before directed in respect of the duties on windows or lights, and in addition to the duties contained in schedule (A).

II.—Every coachhouse, stable, brewhouse, washhouse, laundry, woodhouse, bakehouse, dairy, and all other offices, and all yards, courts, and curtilages, and gardens, and pleasure grounds, belonging to and occupied with any dwelling house, shall, in charging the said duties, be valued together with such dwelling house; provided no more than one acre of such gardens and pleasure grounds shall in any case be so valued.

III.—All shops and warehouses which are attached to the dwelling house, or have any communication therewith, shall in charging the said duties be valued together with the dwelling house and the household and other offices aforesaid thereunto belonging (except such warehouses and buildings upon or near adjoining to wharfs which are occupied by persons who carry on the business of wharfingers, and who have dwelling houses upon the said wharfs for the residence of themselves or servants employed upon the said wharfs.)

And

And also except such warehouses as are distinct and separate buildings, and not parts or parcels of such dwelling houses, or the shops attached thereto, but employed solely for the purpose of lodging goods, wares, and merchandize, or for carrying on some manufacture (notwithstanding the same may adjoin to or have communication with the dwelling house or shop.)

IV.—Every chamber or apartment in any of the inns of court, or of chancery, or in any college or hall in any of the universities of *Great Britain*, being severally occupied, shall be charged thereto as an entire house, and on the respective occupiers thereof.

V.—Every hall or office whatever belonging to any person or to any body politic or corporate, or to any company, lawfully charged with the payment of any other taxes or parish rates, shall be subject to the duties as inhabited houses; and the person, &c. to whom the same shall belong, shall be charged as occupier.

VI.—Where any house shall be let in different stories, tenements, lodgings or landings, and shall be inhabited by two or more persons or families, the same shall nevertheless be charged to the said duties as if inhabited by one person or family only, and the landlord or owner shall be deemed the occupier, and shall be charged to the said duties: provided, that where the landlord shall not reside within the limits of the collector, or the same shall remain unpaid by such landlord for the space of twenty days after the same is due, the duties so charged may be levied on the occupier or occupiers respectively; and such payment shall be deducted and allowed out of the next payment on account of rent.

VII.—No dwelling house, or other such premises as aforesaid, shall be estimated or rated at any less annual value than the rent or value at which the same premises stand charged in the last rate made on or before the time of making the assessment for the relief of the poor in the same parish or place.

VIII.—In case the said poor rate shall have been made throughout by a pound rate on the full annual value of all the dwelling houses in the same parish or place, then such assessment shall be made according to the said rate; and the assessors for the said duties shall in making their assessments on different dwelling houses in the same parish or place, in all such cases as aforesaid, observe the same rule of proportion between the assessment of the duties granted by this act thereon, as shall have been observed in making such poor rate as to all the premises aforesaid rated in such poor rate.

IX.—In case the said poor rate shall have been made on any proportionate part of such value, then such assessors

shall assess the same at the same sums respectively as they would have been assessed at by virtue of this act, if the same had been respectively estimated in such poor rate at the full value thereof respectively.

X.—In case the poor rate in any parish or place shall not be made on the full annual value, nor according to any proportionate part of such annual value, but nevertheless the said dwelling houses shall be rated in a due proportion to each other, it shall be lawful for the assessors, by all lawful ways and means authorized by this act, to enquire into, and to the best of their information and judgement to ascertain the actual rent of the several houses, and other the premises aforesaid, in different occupations within their limits, which shall have been let within the period of three years preceding the time for making the assessment, or so many of them as they shall be able to ascertain the rent of, and shall make an assessment on the actual rent on such of the said houses and premises therewith occupied which shall appear to them to have been so let at the just and full value thereof, and shall afterwards proceed to assess the several other houses with the premises aforesaid occupied therewith in sums respectively bearing the same proportion, as far as the same can be computed, to the amount of such first assessment as the sums charged on the said poor rate on such other premises respectively bear to the sum charged in the said poor rate on the said house and premises so first assessed; provided always, that the aforesaid rule shall extend only to such houses and premises chargeable under this act as shall be rated in such poor rate distinctly and unmixed with other property not chargeable to the duties hereby granted.

XI.—In case any house, with the premises aforesaid therewith occupied, shall not be rated in such poor rate, or shall be rated therein together with other property not chargeable to the duties hereby granted, or there shall be no poor rate where such house is situate, and in every case where the rules before mentioned are not applicable, the said assessors shall make their assessment from the best information they can obtain of the annual value thereof, which in all cases shall be the actual amount of the rent at which the said houses and premises aforesaid respectively are let, or if not let, the rent which they respectively are worth to be let by the year.

XII.—In case any house, with the premises aforesaid, shall, on occasion of the assessor having pursued the proportions observed in the poor rate on which such assessment was made, have been assessed at a sum exceeding the just rate on the annual value, it shall be lawful for the commissioners to abate and deduct from such assessment so much as in their judgement

judgement will reduce the same to a just rate on such annual value, but in no case to a less annual value than the same stands rated at in the poor rate.

XIII.—In case any house, with the premises aforesaid, shall on occasion of the assessor having pursued the proportions observed in such poor rate, have been assessed at a sum less than the actual rent at which the same shall be let, or if not let, at less than the rent at which the same might be let, it shall be lawful for the commissioners to enlarge and increase such assessment to such sum as a like rent would amount unto.

XIV.—Where any dwelling house shall be divided into different tenements being distinct properties, every such tenement shall be subject to the same duties as an entire house, which duty shall be paid by the occupiers respectively.

Exemptions.

Case I.—Any house belonging to his majesty, or any of the royal family, and every public office for which the duties heretofore payable have been paid by his majesty, or out of the public revenue.

Case II.—Every dwelling house, being a farm house occupied by a tenant, and *bona fide* used for the purposes of husbandry only.

Case III.—Every dwelling house, being a farm house occupied by the owner thereof, and *bona fide* used for the purposes of husbandry only, which together with the household and other offices aforesaid, shall be valued under this act at ten pounds per annum, or any less sum.

Case IV.—Any hospital, charity school, or house provided for the reception or relief of poor persons.

Case V.—Every house whereof the keeping is committed to the care of any person or servant, who doth not pay rates to the church and poor, and who resides therein for the purpose only of taking care thereof: provided, that an assessment shall be duly made in every such case, and the fact be truly returned in the manner directed by this act in other cases of exemption from the said duties, and the exemption be allowed by the commissioners for executing this act.

Provisions by 43 G. 3. c. 161. respecting the assessment, and exemptions of poor persons from assessment, for the duties in the two preceding schedules.

Every dwelling house, cottage, or tenement, of whatever description, occupied at the time of making the assessment, shall

charge according
to the number of
windows

shall be brought into charge in respect of the duties set forth in schedule (A.) by the respective assessors, and, in their default, by the respective surveyors and inspectors herein-mentioned, according to the number of windows therein, subject to the powers of discharging the same as after mentioned; and every dwelling house, or tenement, and other premises therewith occupied, and hereby charged, as set forth in schedule (B.) being, together, of the annual rent of 5*l.* or upwards, shall also be brought into charge in like manner, according to the full yearly rent at which the same is really and *bona fide* worth to be let in respect of the duties set forth in schedule (B.); and if any assessor shall omit, in the assessment of the duties in schedule (A.) to charge the occupiers of any house, or tenement, to the same, according to the number of windows therein, or shall omit, in the assessment of the duties set forth in schedule (B.) to charge the occupier of any house, or tenement, which, with the premises therewith occupied, and hereby charged, shall be of like annual value to the said duties, according to the annual rent at which the same is really and *bona fide* worth to be let, whether the occupier thereof shall be entitled to be discharged from the same in manner herein-after mentioned, or not, such assessor shall, for every neglect, forfeit not exceeding 20*l.* nor less than 5*l.*; and where any such dwelling house, or premises therewith occupied, shall be situate within more parishes or places than one, then the same shall be charged to the said several duties as one entire house, and the premises therewith occupied as belonging thereto, in such parish or place, as the surveyor or inspector shall deem most expedient to be notified by the certificate of such surveyor or inspector, to the commissioners acting for either of such parishes or places. *s. 10.*

Poor persons ex-
empted under
certain limita-
tions.

Any person inhabiting a dwelling house, containing not more than six windows in the whole, shall be exempted from the duties in schedule (A.), in case such person shall be on the books of such parish or place as receiving parochial relief; and shall not be assessed, or liable to be assessed to any of the duties contained in schedules (B.) (C.), (D.), or (E.); which several exemptions shall be proved or claimed in the manner hereinafter mentioned. *s. 11.*

Exemptions
how to be
proved.

And, in order to relieve such persons, who may be charged to the several duties set forth in the schedules (A.) and (B.), or either of them, it is enacted, that where any such house, cottage, or tenement, as is described in the preceding clause shall be brought into charge, and the occupier thereof shall be entitled to the said exemption by reason of poverty, in every such case, the assessors shall, on the certificate of assess-
ment,

ment, set opposite the sum charged on the occupier thereof, the fact of his or her being poor, and shall return the same, together with the assessment and a certificate, as herein-after mentioned, to the commissioners for executing this act in the district where such assessment shall be made; who, before allowing any such assessment, or making any order thereupon, shall examine the assessors, who shall respectively attend them for that purpose, at such time as they shall appoint, touching the return so made; and if the said commissioners shall, from such examination, and from the certificate herein-after mentioned, be satisfied that any such occupier is entitled to such exemption, they may, after such proof, strike out the charge, leaving his name, and the number of windows and rent of such house in the assessment, and every such occupier shall be exempted accordingly; which exemption shall, in the like cases, extend to, and shall be allowed on all assessments on such poor persons, of the duties payable at the time of passing this act, which shall have been, or shall be made; at any time after the commencement of the present year. . *f. 12.*

Exemptions to be allowed on the assessments for the present year.

But before any such exemption or abatement shall be allowed, the assessors shall produce to the commissioners, a certificate under the hands of five or more substantial householders of such parish or place, in vestry assembled, of whom the resident minister shall be one; but in case there shall be no such minister resident therein, then at least two or more churchwardens and overseers of the poor of such parish or place shall concur with such householders in such certificate, certifying thereby, that they have carefully examined the assessment of the said duties, and the allegations therein made by the assessors, touching such persons who shall be therein stated to be poor, and that in their judgment and belief the persons therein certified to be poor are entitled to be exempted by reason of their poverty, and are wholly unable to pay the duties assessed upon them; provided, that if in any parish or place there shall not be five substantial householders, then such certificate may be made by the substantial householders there residing; or if there shall be no churchwardens or overseers, then the same may be granted by the resident minister, or by any two churchwardens or overseers of any adjoining parish or place, who can certify the truth of such allegations, concurring therein with the substantial householders residing in the parish or place where such assessment shall be made. *f. 13.*

Before exemptions are allowed, the assessors to produce to the commissioners a certificate of the minister and inhabitants of the parish in which the party resides.

And where the occupier of any house, cottage, or tenement, containing more than the number of windows or lights before specified, shall be brought into charge, and the

Occupiers of houses containing more than the number of windows before

specified may, under certain limitations, be relieved from the duties, provided the surveyor shall certify the truth of the claim, or the same be made out to the satisfaction of the commissioners upon appeal.

occupier thereof shall, at the commencement of the year for which such assessment is made, be poor and indigent, or shall become so during that year, in every such case, such occupier may give notice thereof in writing, stating the causes to the assessor, or to the surveyor of the district in which such house is situate, annexing thereto a certificate, under the hands of such persons as aforesaid, certifying that, in their judgement and belief, such person is justly entitled to relief on account of poverty for the causes mentioned in such notice; and every assessor shall deliver the notices by him received to such surveyor: and if such surveyor shall be satisfied of the truth thereof, after due examination of the facts and circumstances, and that such person is unable to pay the duties charged on him or her, and has no probable means of bettering his or her condition within that year, he is hereby required to certify the same to the commissioners; and if such surveyor shall not be satisfied, then, on notice thereof to such occupier, he may appeal from such charge to the commissioners, giving ten days previous notice thereof to the said surveyor. *f. 14.*

Exemption in the like cases to be allowed upon the assessments of the present year.

And in every case where the surveyor shall certify to the said commissioners that he is satisfied of the truth of the claim made by any such occupier, and that he is, and will be unable to pay the duties charged on him or her within that year; or if, upon appeal, it shall appear to the satisfaction of the major part of the said commissioners present, on the oath of such appellant, or by other lawful evidence on oath produced by such appellant, that he or she is entitled to maintain such appeal, and wholly unable to pay the duties charged on him or her, the said commissioners may give such relief, either by striking off the whole of the duty so charged, or diminishing the same, as to them shall seem meet and necessary; and which appeals, for the causes in this clause mentioned, may be heard and determined, either on the days mentioned in this act for hearing appeals in other cases, or at the end of the year, or any days to be appointed by the respective commissioners for executing this act; which exemption shall, in the like cases, extend to, and shall be allowed on all assessments on such poor persons of the duties payable at the time of passing this act, which shall have been, or shall be made at any time after the commencement of the present year. *f. 14.*

Unoccupied houses to be inserted in the assessment.

And assessors, &c. to certify

Every house or tenement which shall be unoccupied at the time of making the assessment shall be inserted as such in the assessment, with the number of windows contained therein, and the annual rent at which the same might be let, if the same shall amount to 5*l.* or upwards; and the assessors, and

and in their default, the surveyors and inspectors, shall cause the same to be certified to the commissioners, from the time of such house or tenement coming into the occupation of any person, who shall cause notice thereof to be given to such assessor, surveyor, or inspector, within 20 days after coming into the occupation, and every person neglecting so to do, shall forfeit 5*l*., and shall be liable moreover for such neglect to be charged to the said several duties inserted in the assessment for the whole year in which such house or tenement became so occupied; but on giving such notice, shall be chargeable only from the time of coming into the occupation thereof, according to the rates in schedules (A.) and (B.), estimated on the remainder of such year, commencing from the end of the preceding quarter of the year; and every house or tenement charged to the said duties, although the same shall within the year become unoccupied in the manner mentioned in schedule (A.), shall be charged to the said duties for the whole year on the former occupier, or the occupier for the time being, as the case may require, unless notice in writing shall have been given to the assessor for the place of such house or tenement becoming unoccupied; and the commissioners for executing this act are hereby empowered, at their discretion, to discharge such assessment, or to direct the duties to be levied according to this act, as to them shall seem just. *f*. 15.

And where any house, cottage, or tenement, or any windows therein, or any hospital, charity school, poor house, or licensed chapel, ought to be exempted from the said duties by virtue of any of the rules in the schedules (A.) and (B.) the occupier or occupiers, and the persons conducting or managing such hospital, &c. shall give notice thereof to the assessor, which notice shall contain the number of windows in such house, &c. and in such hospital, &c. and respectively distinguishing the number chargeable by this act, and the number claimed to be exempted as aforesaid; and the assessors shall make diligent inquiry into the same, and shall state on the assessment, to the best of their knowledge and belief, the number of windows entitled to such exemption, and shall return such statement, together with the assessment, to the commissioners who shall examine into such statements, by examination of the assessors in manner before directed in cases of occupiers to be discharged for poverty: and on due proof the commissioners may discharge such number of windows from assessment, as they shall think within the exemptions hereby allowed. *f*. 17.

when the same become occupied

Occupier to give notice and to be charged from the end of the preceding quarter.

Houses becoming, unoccupied after assessment, to be charged for the whole year, unless notice is given.

Notice to be given by occupiers of houses, or managers of hospital charity-schools, &c. entitled to exemption from the duties on such buildings, &c.

Exemption to be allowed by commissioners after examination.

Schedule (C.) No. 1. 48 G. 3. c. 55. Duties payable annually for male servants.

Number of servants.				Amount of duty for each servant.		
				£.	s.	d.
For 1 such servant	-	-	-	2	4	0
2 - Do.	-	-	-	2	16	0
3 - Do.	-	-	-	3	7	0
4 - Do.	-	-	-	3	18	0
5 - Do.	-	-	-	4	9	0
6 - Do.	-	-	-	4	14	0
7 - Do.	-	-	-	4	16	0
8 - Do.	-	-	-	5	3	0
9 - Do.	-	-	-	5	12	0
10 - Do.	-	-	-	6	3	0
11 - Do. and upwards	-	-	-	7	1	0
For every such servant retained or employed by any male persons, never having been married, over and above the before mentioned duties, the further sum of.				-	-	-
				1	14	0

Rules for charging the said last-mentioned duties.

1.—The said last-mentioned duties to be paid by the master or mistress of such servants respectively; and to extend to and be payable for every male servant retained or employed in any of the following capacities; that is to say, maître d'hôtel, house steward, master of the horse, groom of the chamber, valet de chambre, butler, under butler, clerk of the kitchen, confectioner, cook, house porter, footman, running footman, coachman, groom, postillion, stable boy or helper in the stables of the master or mistress, gardener, park-keeper, game-keeper, huntsman, whipper-in, or by whatever name or names male servants really acting in any of the said capacities shall be called, or whether such male servants shall have been retained or employed in one or more of the said capacities, or in any other business jointly with one or more of the said capacities, and to every such servant let to hire with any carriage or horses for one year, or any longer period.

2.—To all servants of the capacities before mentioned employed in taverns, coffee-houses, inns, alehouses, or any other houses licensed to sell wine, ale, or other liquors by retail, and in eating or victualling houses, and in hotels, or lodging houses being eating and victualling houses of whatever description, although not licensed, except hostlers and helpers in stables, and drivers employed to drive carriages let out to hire, in such manner that the stamp office duty payable by law on horses let to hire shall have been duly paid and satisfied, and except waiters.

3.—To

3.—To every gardener who shall have contracted for the keeping of any garden or gardens, and to every person who shall have been hired to work in any garden wherein the constant labour of one person shall be necessary, or where one person shall have been constantly employed, to be paid by the person or persons for whose use, and in whose garden such gardener or person shall have been employed, except as herein-after mentioned.

4.—To all apprentices retained or employed in any of the capacities aforesaid, except such as shall have been imposed upon any master or mistress by virtue of the powers given to magistrates and parish officers by any act of parliament, so as the number of such apprentices for whom this exemption shall be claimed by the same person shall not exceed two, such apprentices not wearing livery nor being employed as livery servants.

5.—The duties on gamekeepers shall extend to every person retained or employed to kill or preserve game for the use of any other person or persons, whether lawfully appointed to kill or preserve game or not, to be paid by the person or persons retaining, employing, or appointing such persons respectively; except gamekeepers, being the servants of other qualified persons duly returned by and charged to the said duties as servants of such other persons.

6.—To every person who shall be employed in the capacity of a coachman, postillion, groom, or helper in the stables, although such person shall have been retained for the purposes of husbandry, or any manufacture or trade, where the master or mistress of such person shall be chargeable with duty for any carriage (other than a taxed cart), or for two or more horses chargeable with the duty on horses kept for the purpose of riding or drawing carriages, as herein mentioned.

7.—To every person employed as a groom, stable boy, or helper in the stables of the master or mistress, to take care of any horse, mare, or gelding, the property of such master or mistress, kept for the purpose of racing or running for any plate, prize, sum of money, or other thing, or in training for for the said purposes.

Schedule (C.) No. 2. Duties payable annually for male servants retained or employed in the several capacities herein mentioned.

For every gardener or person employed to work in any garden, under any person chargeable to the duties mentioned in schedule (C.); No. 1.; and for every gardener employed in any garden

— wherein

wherein the constant labour of one person £. s. d.
 shall not be necessary, the sum of - 0 6 0
 To be paid by each person in whose garden such
 person shall be employed.

*Exemptions from the duties as set forth in schedule (C.)
 No. 1, and 2.*

Any person employed by the day or week to work as a day labourer, at the usual rate of wages for day labourers in agriculture, in any garden belonging to a dwelling house, being a farmhouse, and exempted as such from the duties mentioned in schedule (B.) or in any garden belonging to a dwelling house not chargeable to the duties mentioned in the said schedule, such garden not requiring the constant labour of one such labourer.

Schedule (C.) No. 3. Duties payable annually for every male person or servant retained or employed in the several capacities herein mentioned.

For every male person employed by any merchant or trader as a traveller or rider, the duties following; *videlicet*,

Where one such traveller or rider and no more shall be so employed, the sum of - 2 8 0

And where more than one such traveller or rider shall be so employed, for each the sum of - 3 10 0

For every male person employed by any person in trade, or exercising any profession whatever, as a clerk or book-keeper, or office-keeper, except apprentices, where no premium, or a premium less in value than the sum of 20*l.* has been paid or contracted for with such apprentice, the duties following; *videlicet*.

Where one such clerk, book-keeper, or office-keeper, and no more shall be so employed, the sum of - 1 4 0

And where more than one such clerk, book-keeper, or office-keeper shall be so employed, for each the sum of - 2 8 0

For every male person employed by any person in trade as a shopman, for the purpose of exposing to sale or selling goods, wares, or merchandize in such shop or warehouse, whether by wholesale or retail; and every male person employed as a warehouseman, porter or cellar-

man in such shop or warehouse, except apprentices as aforesaid, the sum of -

£. s. d.
1 4 0

The said duties to be paid by the employer or employers of such persons, and to extend to every body politic or corporate, whether aggregate or sole, and to every society, fraternity, or partnership, although not corporate; and to every manufacture or concern (except husbandry) whereby the employer shall seek a profit.

For every male servant employed as a waiter (except occasional waiters, over and above the ordinary number usually kept) in any taverns, coffee houses, inns, alchouses, or other licensed houses, or in eating or victualling houses, or in hotels or lodging houses, being eating or victualling houses, the sum of -

2 5 0

For every male servant retained by any stable-keeper to take care of any horse, mare, or gelding, of any other person or persons, kept for the purpose of racing or running for any plate, prize, sum of money, or other thing, or any horse, mare, or gelding, in training for any of the said purposes, whereby such stable-keeper shall gain a livelihood or profit, the sum of -

1 4 0

For every male servant *bona fide* retained for the purposes of husbandry, manufacture, or trade, by which the master or mistress shall gain a livelihood or profit, and at any time employed in any domestic employment in any of the capacities in schedule (C.), No. 1. and not chargeable to the duties in the said schedule, the sum of -

6 0 0

For every male servant *bona fide* retained for the purposes of husbandry, or any manufacture or trade, by which the master or mistress shall gain a livelihood or profit, and at any time employed in the capacity of a groom, stable boy, or helper in the stables, where the master or mistress shall be chargeable for one horse, and no more, to the duty on horses kept for the purposes of riding, or drawing a taxed cart, or to the duty on such taxed cart, and not on any other carriage chargeable with duty by this act, the sum of -

6 0 0

The said last mentioned duties to be paid by the employer, or master or mistress of such persons or servants.

Schedule (C.) No. 4. Duties payable on servants let to hire.

For every coachman, groom, postillion, or helper, kept for the purpose of being let to hire for any period of time less than one year, and in such manner that the stamp office duty payable by law on horses let to hire shall not be payable on every such letting by any postmaster, innkeeper, or other person, duly licensed to let post horses by the commissioners for managing the duties on stamped vellum, parchment, and paper, or by any coachmaker or maker of such carriages, or other person, the annual sum of

3 4 0

The said duty to be paid by the person or persons letting the same to hire; provided, that if the person or persons hiring the same shall not make a return thereof according to the directions of this act, then and in every such case the progressive duty made payable by schedule (C.) No. 1. shall be chargeable in respect of every such servant on the person or persons hiring such servant, and making such default as aforesaid, according to the number of servants retained by him, her, or them, in the manner directed by the act.

Exemptions from the last mentioned duties, as set forth in schedules (C.), No. 1, 2, 3, and 4.

I.—The said duties not to be payable by any person who shall have retained or employed *bona fide* any male servant solely for the purposes of husbandry or manufacture, or of any trade or calling by which the master or mistress of such servant shall earn a livelihood or profit, and who hath not at any time or occasion, or in any manner, or for any purpose, been employed in any of the capacities enumerated in schedules (C.), No. 1 and 2, nor in any of the capacities enumerated in schedules (C.), No. 3 and 4, whereon any duty is specifically made payable.

II.—The said duties not to be payable by any college or hall within either of the universities of Oxford or Cambridge, or the several colleges of Westminster, Eton, or Winchester, for any butler, manciple, cook, gardener, or porter; nor by any of the royal family, for any servant acting in any of the capacities aforesaid.

III.—The said duties not to be payable by any of the royal hospitals of Christ, Saint Bartholomew, Bridewell, Bethlehem, Saint

Saint Thomas in the City of London and Borough of Southwark, or Guy's, or the Foundling Hospital.

IV.—The said duties not to be payable by any officer serving in any regiment of horse or dragoons under the rank, or not receiving the pay of a field officer :

Nor by any officer serving in any regiment of artillery, infantry, royal marines, royal garrison battalions, or corps of engineers, for any servant being actually a soldier in the regiment, troop, or company, to which such officer shall belong :

Nor by any officer in his majesty's navy, under the rank of a master and commander, in actual employ, for any servant borne upon the books of the ship to which such officer shall belong :

Nor by any officer on half pay from his majesty's navy, army, or marines, who shall have been disabled by loss of a limb or wound received in his majesty's service :

Every such officer retaining or employing one male servant only.

V.—The said duties not to be payable for any persons retained or employed in the above capacities, in the room of others who may be called out under any act which has been passed or which shall be passed for training and exercising a military force within these kingdoms, during the time of such training and exercising.

Provisions by 43 G. 3. c. 161. relative to the assessment of servants, according to the duties in the preceding schedule.

Every person retaining or employing any male servants or other male persons herein described, in the course of the year ending the day next before the respective days appointed for the commencement of the duties in the year 1804, shall within six weeks thereafter, whether any previous notice for that purpose shall have been delivered or not, cause to be prepared particular lists in writing, signed by such person on his or her behalf; which shall contain the parish or place where such person shall then or usually reside: and one of such lists shall also contain the greatest number and the names of the several male servants or other male persons, retained or employed by them at any one time in the course of the year ending as aforesaid, and the several capacities in which they shall serve. And whenever the person required to return such lists shall be liable to the duty on servants kept by male persons never having been married, he shall denote the same by the letter B. And every such person shall cause such list to be delivered to the assessor of the parish or place where he or she shall reside, at or before the expiration

Persons liable to duty on servants to return lists thereof.

Such persons to be charged according to such lists for the year commencing from those days.

expiration of the time hereby appointed for delivery thereof; and every such person shall be charged for the greatest number of servants retained or employed at any one time in the year ending as aforesaid, and shall be assessed and charged by the respective assessors for the year commencing from that day, which assessments shall be made at the rate specified in schedule (C.), and according to the lists which shall or ought to have been returned as aforesaid, subject to the powers of surcharge hereby directed and given. 43 G. 3. c. 161. *f. 27.*

Persons beginning or ceasing to keep servants, to give notice thereof.

Every person who, from and after the day appointed for the commencement of the said duties, shall begin to retain or employ any such male servant or other male person, (not being instead of a former one liable to the said duty), or who shall cease to use or keep any male servant, &c. without retaining another in his place, shall, within 20 days thereafter, give notice thereof in writing, to the assessor of the district or place where he or she shall reside, with a list of the number of such servants, and the increase or decrease made thereby, and specifying therein the proper names and several capacities of such male servants or other male persons, and the name and place of abode of the persons who ought to return such lists. *f. 29.*

Proceedings where persons keep servants having no fixed residence, &c.

And if any persons shall keep any male servants at places where they shall have no fixed residence. or shall come to reside in districts after the time for returning the lists before mentioned, not being charged therein, the assessor, surveyor, or inspector of the district shall, in every case within their knowledge, at any time deliver or leave the notices before directed at the house where such person shall be, or such servants shall be kept. And such person, or the person having the charge of such male servants, shall cause such lists (being previously signed by them as aforesaid) to be delivered to such assessor, surveyor, or inspector, within 21 days after delivery of such notice; and shall also deliver a declaration where they or the persons to whom such servants do belong, have been assessed for that year to the duties hereby imposed, together with their respective places of abode, and the names of such persons; and in case the parties have not been duly and sufficiently assessed, or have delivered lists in other places, or shall not make any return, then they shall be chargeable to the duties hereby made payable, and for which returns ought to be made, either in the parish or place where such last mentioned notice shall have been delivered, as if such person was actually resident therein, or in the parish or place where such persons shall have their ordinary residence. And if any person, after receiving such notice, shall remove without having delivered such list or declaration, he or she shall forfeit 5*0*l. *f. 39.*

With regard to livery stable-keepers, &c. letting servants to hire, see the regulations thereon, *infra*, at the conclusion of schedule (F.)

Schedule (D.) No. 1. Duties payable on all carriages of any of the descriptions mentioned herein.

		Number of carriages.	Amount of duty for each carriage.		
		For carriages with four wheels :	£.	s.	d.
For	1	such carriage, the annual sum of	-	11	5 0
	2	- Do. - - -	-	12	7 0
	3	- Do. - - -	-	13	10 0
	4	- Do. - - -	-	14	0 0
	5	- Do. - - -	-	14	12 0
	6	- Do. - - -	-	15	3 0
	7	- Do. - - -	-	15	14 0
	8	- Do. - - -	-	16	5 0
	9	- Do. and upwards. -	-	16	16 0
		And for every additional body successively used on the same carriage or number of wheels, the further sum of	-	5	12 0

Schedule (D.) No. 2.

		For carriages with less than four wheels :			
For every such carriage (except taxed carts, constructed, kept, and used, under the regulations of this act) drawn by one horse, mare, or gelding, and no more	-	-	-	5	18 0
And for every such carriage, drawn by two or more horses, mares, or geldings	-	-	-	8	5 0
And for every additional body, of the description herein-after mentioned, successively used on the same carriage or number of wheels, the further sum of	-	-	-	2	16 0

Rules for charging the said duties in the two foregoing schedules.

1.—The said duties to be respectively charged for every coach, berlin, landau, chariot, calash, chaise marine, chaise, fociable, or caravan with four wheels; and for every calash, chaise marine, chaise curricule, chair, or car, with less than four wheels, or any number thereof respectively; and for every other carriage with four wheels, or with less than four wheels, respectively used or to be used for the like purposes,

by whatever name or names the same shall be called or known, kept by any person or persons for his, her, or their own use, or hired by the year, or any longer period; and upon all such carriages kept to be let out to hire, or to carry passengers for hire (except such carriages for which other duties are herein-after made payable) and which duties shall be respectively paid by the person or persons keeping such carriages, and shall be chargeable upon the body, or, if more than one, upon the bodies of such carriages respectively, according to the number thereof successively used on the same carriage or number of wheels in the manner before directed, and not in respect of the wheels thereof, or any other parts of such carriages to which the wheels shall be attached.

Schedule (D.) No. 3.

For carriages hired for any period of time less than one year, or kept to be let to hire, or to carry passengers:

For every such carriage kept for the purpose of being let to hire, with horses to be used therewith, for any period of time not exceeding twenty eight days, so that the stamp office duty, payable by law on horses let to hire shall be duly paid and satisfied on every such letting by any postmaster, innkeeper, or other person duly licensed to let post horses, by the commissioners for managing the duties on stamped vellum, parchment, and paper, and whereon the name or names and place of abode of the person or persons so licensed shall be marked or painted, according to the directions of the act in that case made and provided; if such carriage shall have four wheels, the sum of - - - - - 9 9.

And if such carriage shall have less than four wheels, the respective sums mentioned in schedule (D.) No. 2. according to the number of horses used therewith, as therein mentioned.

And for every coach, diligence, caravan, or chaise with four wheels or more, or other carriage with four wheels or more, by whatever name the same shall be called or known, which shall be kept and employed as a publick stage coach or carriage for the purpose of conveying passengers for hire to and from dif-

ferent places, and which shall be duly entered as such with the said commissioners of stamp duties, the like sum of

£. s. d.
9 9 0

All which last-mentioned duties shall respectively be paid by the person or persons keeping the same, for the purposes aforesaid.

For every carriage kept for the purpose of being let to hire for any period of time less than one year, and in such manner that the said stamp office duty shall not by law be payable on such letting by any person so licensed as aforesaid, or by any coachmaker or maker of such carriages, or other person, if such carriage shall have four wheels, the annual sum of

11 5 0

The said last-mentioned duty to be paid by the person or persons keeping the same for the purposes aforesaid.

Provided, if a due return thereof shall not be made by the hirer or hirers according to the directions of the acts herein mentioned, the progressive duty as set forth in schedule (D.) No. 1. shall be chargeable in respect of every such carriage on the person or persons hiring the same, and making such default as aforesaid; subject to the provisions contained in the said acts concerning the same.

And if such carriage shall have less than four wheels; the respective sums mentioned in schedule (D.) No. 2. according to the number of horses to be used therewith, to be paid by the person or persons keeping the same for the purpose aforesaid, subject to the provisions herein-after contained concerning the same.

Schedule (D.) No. 4.

For taxed catts :

For every carriage with less than four wheels, to be drawn by one horse, mare, or gelding, and no more, which shall be built and constructed wholly of wood and iron, without any covering other than a tilted covering, and without any lining or springs, whether the same be made of iron, wood, leather, or other materials, and with a fixed seat, without slings or braces, and without any ornament whatever, other than paint of a dark colour for the preservation of the wood or iron only, and which shall have the words "a taxed cart," and the owner's christian and surname, and place of

abode, marked or painted on a black ground in white letters, or on a white ground in black letters, on the outside of the back pannel or back part of such carriage, in words at full length, each of the letters thereof being at least one inch in length, and of a breadth in proportion, and the price of which (repairs excepted) shall not have exceeded, or the value thereof shall not at any time exceed the sum of 12l. sterling, which shall be kept by any person or persons for his, her, or their own use, and not for hire, the annual sum of - 1 6 6

Excepting always all carriages built and constructed as aforesaid belonging to any person or persons who are or shall be liable to be assessed to the before mentioned duties in respect of a four-wheeled carriage, or who are or shall be liable to be assessed to the before mentioned duties on male servants in respect of two such male servants, which persons respectively shall be charged for such carriages, although built and constructed as aforesaid, at the rate prescribed in schedule (D.) No. 2. for carriages with less than four wheels.

Exemptions from the several Duties in Schedules (D).

No. 1, 2, 3, and 4.

Case I.—Any carriages belonging to his majesty, or any of the royal family.

Case II.—Any coach or coaches, licensed by the commissioners for hackney coaches within the cities of *London* and *Westminster*, and the suburbs thereof, to be used as hackney coaches there, and numbered according to law.

Case III.—Any carriage kept by any coachmaker or maker of carriages, at any time after the fifth day of *April* one thousand eight hundred and eight, *bond fide* for the purpose of sale, or of being lent to any person whose carriage being of the same denomination or description shall be then making, mending, or repairing by such coachmaker or maker of carriages, and during the time the same shall be necessarily under repair; provided such carriage shall not at any time, whilst in the possession of such coachmaker or maker of carriages, be employed for his or her own use, or let to hire, or otherwise lent than as aforesaid.

Case IV.—Any cart which shall be kept truly and without fraud to be used wholly in the affairs of husbandry, or in the carriage of goods in the course of trade, and whereon the name and place of residence of the owner, and the words “common stage cart” shall be legibly painted, although the owner, or his or her servant or servants, shall or may occasionally

tionally ride therein or thereon when laden or when returning from any place to which, or when going to any place from which any load shall have been or shall be to be carried in such carriage in the course of husbandry or trade; or for conveying the owners thereof or their families to or from any place of divine worship on *Sunday*, or on *Christmas Day*, or on *Good Friday*, or on any day appointed for a public fast or thanksgiving, or for carrying persons going to or returning from the elections of members to serve in parliament, in case such carriage shall not have been or be used for any other purpose of riding thereon or therein, save as aforesaid, or shall not have been or be let to hire for any of such purposes of riding therein or thereon.

Schedule (D.) No. 5. Duties payable by coachmakers and makers of other carriages, chargeable with duty by this act, and on carriages made or sold as herein mentioned.

By every person who shall carry on the trade of a coachmaker or maker of any carriages chargeable with duty by this act in <i>Great Britain</i> , the annual duty of	£.	s.	d.
-	-	0	6 0

By every such coachmaker or maker of such carriages as aforesaid, for every such carriage with four wheels which he or she shall make, build, or construct for sale, the sum of	-	1	2 6
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And for every such carriage with two wheels, which he or she shall make, build, or construct for sale, the sum of	-	-	0 11 3
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Schedule (D.) No. 6. Duties payable by persons selling any carriages chargeable with duty by this act, by auction or on commission.

By every person who shall sell any carriage chargeable with duty by this act, by way of auction or on commission, for or in expectation of profit or reward in <i>Great Britain</i> , the annual duty of	£.	s.	d.
-	-	0	6 0

By every such person for every such carriage with four wheels which he or she shall sell by auction or on commission, for or in expectation of profit or reward as aforesaid, the sum of	-	1	2 6
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And for every such carriage with two wheels, which he or she shall sell by auction or on commission, for or in expectation of profit or reward as aforesaid, the sum of	-	-	0 11 3
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Provisions by 43 G. 3. c. 161. respecting the payment of the various duties on carriages.

Persons who have kept any carriages in the year ending on the days appointed for the commencement of the duties in 1804, to return certain lists to the assessors.

And every person who shall have kept any carriage, or shall have used the business of a coachmaker or seller of carriages by auction or on commission as aforesaid, in the course of the year ending on the day previous to the commencement of the duty in 1804, shall within 6 weeks thereafter, whether notice for the purpose have been delivered or not, cause to be prepared true and particular lists in writing, signed by him or on his behalf, containing the parish or place where he shall then or usually reside; and also the greatest number of carriages described in the schedules kept by such person at any one time within such period, by its usual name, the particular kind of such carriage, by which the body or bodies are usually called or known, and distinguishing the number of such carriages with four wheels, from the number of those with less than four wheels, and also the number of bodies of such carriages which shall successively have been used on the same carriage or number of wheels, and also the number of such carriages liable as taxed carts; and another list, if the same shall be returned by any coachmaker or maker of carriages, or by any seller of such carriages by auction or on commission, shall contain the place or places where such trade shall be carried on; and every such person shall cause such lists to be delivered to the assessor or assessors, or to be left at his or their dwelling house or houses, or one of them, at or before the expiration of the time herein appointed for such delivery; and every person who shall have kept or used any carriages, shall be charged for the greatest number thereof kept or used by him at any one time within the year ending as aforesaid; and every person who shall have used the business of a coachmaker or maker of carriages, or of a seller of carriages by auction or on commission, shall be assessed for the year commencing from that day, at the rate specified in the schedules aforesaid, and according to the lists which shall or ought to have been returned as aforesaid, subject to the powers of surcharge as herein given. *s.* 27.

Persons beginning or ceasing to keep carriages, or to carry on the trade of coachmakers, to give notice thereof.

Every person who, after the day appointed for the commencement of the said duties, shall begin or cease to keep, or use any carriage (not being instead of any former one, liable to the like duty) or to exercise the trade of a coachmaker, or maker of such carriages, or a seller thereof by auction or commission, shall, within 20 days after he shall so begin or cease to keep the same, or begin or cease to exercise such respective trade, give notice in writing to the assessor of the place, where he shall reside, and a list of the number of such carriages, and the increase or decrease made thereby, and the particular

particular rate of duty to which he is liable, as having exercised such trade; and describing every carriage by its usual name and description, distinguishing the number of bodies used with, and of the wheels belonging to each carriage, and also distinguishing each such carriage liable as a taxed cart, and the name and place of abode of the person who ought to return such lists. *f. 29.*

And if any person shall keep carriages at any place where he shall have no fixed residence, or shall come to reside in any district after the time for returning the lists before mentioned, not being charged therein; the assessor, surveyor, or inspector of the district shall in every case, within his knowledge, at any time deliver or leave the notices before directed, at the house where such persons shall be, or such carriages shall be kept. And such person, or the person having the charge of such carriages, shall cause such lists (being previously signed by them as aforesaid) to be delivered to such assessor, &c. within 21 days after delivery of such notice; and shall also deliver a declaration where they, or the persons to whom such carriages do belong, have been assessed for that year to the duties hereby imposed, together with their respective places of abode, and the names of such persons, or in case no assessment, or no sufficient assessment has been made, then where they have delivered lists, in order to be assessed. And in case the parties have not been duly or sufficiently assessed, or shall not have made any return, they shall be chargeable to the duties hereby made payable, and for which returns ought to be made, either in the parish or place where such last mentioned notice shall have been delivered, as if such person was actually resident therein, or in the parish or place where such persons shall have their place of ordinary residence. And if any person, after receipt of such notice, shall remove without having delivered such list and declaration, he shall forfeit 5*l.* *f. 39.*

Proceedings where persons keeping carriages, have no fixed residence.

Every coachmaker, or maker of carriages, shall enter in a book, the number and kinds of carriages by him built for sale, distinguishing the number of the wheels of each, and the number sold, and the names and places of abode of the persons to whom sold, and the day on which each carriage was delivered or sent out of his shop or warehouse. And every seller of carriages by auction or commission, shall also enter in a book, the number and kinds of carriages sold by him, distinguishing the number of wheels of each, and the days on which such carriages were sold respectively; which books shall, at all reasonable times in the day, be inspected by the assessors, surveyors, or inspectors of the place, where such person shall reside. And every such person shall, within 20 days after the 5th of July and the 5th of October 1804, and

Coachmakers, &c. to keep accounts of carriages built, or sold by auction or commission.

within 20 days after the 5th of *January* and the 5th of *April*, the 5th of *July* and the 5th of *October* in every subsequent year, deliver a true copy in writing of every entry made in such book, during each preceding quarter, to the assessors, for the use of the inspector or surveyor, or to such surveyor or inspector himself: and, when required by such surveyor or inspector, every such person, or his chief servant, manager, or workman, shall make oath or affirmation of the truth of such account; every copy of which shall, to the best of his knowledge or belief, express the christian and surname of every person therein required to be entered, and the place of his usual residence; on pain of forfeiting 50*l.* for neglecting to keep such account, or to deliver such copy thereof, or for wilfully omitting any description that ought to be inserted therein. *f.* 43.

Proper forms for such accounts to be had at the tax-office.

And forms for entering such accounts shall be prepared by the commissioners of taxes, and issued to every person applying for the same, and leaving his name and place of abode in writing at the tax-office, or with any surveyor of the district where such applicant shall reside. And at the end of the year every such account shall (all such entries being required to be first duly made) be signed by the party with his own proper name, in his usual manner of writing, and returned in like manner as aforesaid. And, in default of such application, the party shall provide, fill up, sign, and deliver the proper forms to the assessor, surveyor, or inspector, in like manner, on pain of forfeiting 50*l.* for neglecting to deliver up such accounts within the time limited. *f.* 44.

Assessors, &c. to whom coachmakers, or sellers of carriages, shall deliver accounts, to certify the same to commissioners.

And the assessor, surveyor, or inspector, to whom such account shall be delivered by any coachmaker, or seller of carriages, shall return to the commissioners a certificate of the number of such carriages, of the several descriptions herein mentioned, by such persons respectively built or sold within the period of such account; and the amount of duty chargeable thereon: and the said commissioners shall cause an assessment to be made on the amount contained in each certificate, and added to the assessment of the other duties charged in the same parish or place, and shall cause the same to be inserted in the collector's duplicate, who shall demand and collect the same, at the same times, and under the same warrant, as the other duties. *f.* 45.

With regard to the assessments on livery stable keepers, &c. who let carriages and horses to hire, see the regulations therein, *infra*, at the conclusion of schedule (F.)

Schedule (E.) No. 1. Duties payable for all horses, mares, and geldings, kept and used for the purpose of riding, or of drawing any carriage chargeable with duty by schedule (D.)

Number thereof.			Amount of duty for each horse, mare, or gelding.		
			£.	s.	d.
For 1	such horse, mare, or gelding		2	13	6
2	such horses, mares, or geldings		4	9	6
3	ditto		4	18	6
4	ditto		5	2	0
5	ditto		5	3	0
6	ditto		5	7	6
7	ditto		5	10	0
8	ditto		5	10	0
9	ditto		5	12	0
10	ditto		5	17	6
11	ditto		5	17	6
12	ditto		5	17	6
13	ditto		5	18	0
14	ditto		5	18	0
15	ditto		5	18	0
16	ditto		5	18	0
17	ditto		5	18	6
18	ditto		5	19	6
19	ditto		6	0	0
20 and upwards			6	1	0

Rules.

The said duties to be payable annually for every horse, mare, or gelding, used on any occasion for the purpose of riding, or of drawing any carriage for which any duty is payable by this act, or hired by the year, or any longer period, and to be paid by the person or persons using the same, except as after mentioned.

Exemptions from the said duties in schedule (E.), No. 1.

I.—Any person or persons who shall keep any horse, mare, or gelding which shall be used truly and without fraud for the purpose of husbandry, or of drawing any carriage (except such carriages as are liable to any duty by this act, or carrying burthens in the course of the trade or occupation of the person to whom such horse &c. shall belong, although such horse &c. shall be used for riding when returning from any place to which any load or burthen shall have by such horse, &c. been drawn or carried, or in going to any place from whence

whence any load or burthen shall be to be brought back by any such horse, &c. or on account of such horse, &c. having been used for the purpose of riding to procure medical assistance, or for the purpose of riding to or from market, or any place of public worship, or any election of members to serve in parliament, or any courts of justice, or any meeting of the commissioners of taxes, provided such horse &c. shall not on any occasion be used for any other purpose save as aforesaid.

II. Any person occupying a farm as tenant at rack rent, the rent of which shall be less than 70*l.* a year, and making a livelihood solely thereby; or any person occupying any estate on any other tenure than as tenant at rack rent solely, or such estate, together with a farm at rack rent, the value of which in the whole shall be less than equivalent to a farm at the rack rent of 70*l.* a year (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack rent, as equivalent to double the amount of the like farm at rack rent), and making a livelihood solely by such his own estate, or by such estate and farm jointly, and using occasionally for the purpose of riding any horse &c. which shall be *bona fide* kept and usually employed for the purposes of husbandry.

III.—Any person occupying a farm and making a livelihood solely thereby, or any person carrying on a trade, and making a livelihood solely thereby, or making a livelihood by such occupation and trade jointly; or any ecclesiastical person not possessed of an annual income of 100*l.* or upwards whether arising from any ecclesiastical preferment or otherwise, for one horse, &c. used only for the purpose of drawing any carriage with less than four wheels, liable to the duty hereby made payable on taxed carts.

Schedule (E.) No. 2. Duties payable on horses let to hire.

For every horse, mare, or gelding, let to hire for the purpose of riding, or of drawing any such carriage as aforesaid, for any period of time less than one year, in any manner so that the stamp office duty payable by law on horses let to hire, shall not be payable, the sum of

2 13 6

To be charged annually on the person or persons letting the same; provided, if a due return thereof shall not be made by the hirer or hirers, according to this act, the progressive duty, as set forth in schedule (E.) No. 1. shall be chargeable in respect of every such horse, mare, or gelding, on the person

person or persons hiring the same, and making such default as aforesaid, subject to the provisions of this act.

Schedule (E) No. 3. Duties payable on horses kept for the purpose of racing or running for any plate, prize, or sum of money, or other thing, or kept in training for any of the said purposes.

For every horse, mare or gelding, bona fide kept for the purpose of racing or running for any plate, prize, or sum of money, or other thing, or kept in training for any of the said purposes, whether in the stables of the proprietor or proprietors, or of any other person or persons, the sum of

2 13 6

The said duty to be charged annually on the person or persons having the custody, charge, or management of such horses, mares, or geldings.

Schedule (F.) No. 1. Duties payable for all horses, mares, and geldings, not charged with any duty according to the schedule (E.) No. 1, 2, and 3, and also on mules.

For every horse, &c. not chargeable with any duty according to the schedule (E.) No. 1, 2, and 3, as aforesaid, and for every mule, except in the cases herein-after mentioned where in other duties are made payable, the sum of

• 14 •

Schedule (F) No. 2. Duties payable on husbandry horses, in the cases herein-after mentioned.

Any person occupying a farm at rack rent, the rent of which shall be less than 20*l.* a year, and making a livelihood solely thereby, or occupying any estate on any other tenure than as tenant at rack rent solely, or such other estate, together with the farm at rack rent, the value of which in the whole shall be less than equivalent to a farm at the rack rent of 20*l.* a year (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack rent, as equivalent to double the amount of the like farm at rack rent) and making a livelihood

solely by such his own estate, or by such estate and farm jointly or principally thereby, and likewise a profit by any trade or employment, and keeping not more than two horses, mares, geldings, or mules, bona fide for the purpose of such occupation, shall be charged for each of such two horses, mares, geldings, or mules, the sum of - - -

0 2 10

Any person occupying a farm at rack rent in *Wales* or *Scotland*, the rent of which shall be less than 10*l.* sterling a year, and making a livelihood principally thereby, or occupying any estate on any other tenure than as tenant at rack rent, or such other estate, together with a farm at rack rent, the value of which in the whole shall be less than equivalent to a farm at the rack rent of 10*l.* sterling a year, (reckoning the value of every estate occupied by the owner thereof, or on any tenure other than as tenant at rack rent, as equivalent to double the amount of the like farm at rack rent), and making a livelihood principally thereby, and likewise a profit by any trade or employment, and keeping not more than two horses, mares, geldings, or mules, bona fide for the purposes of such occupation, and of such trade or employment jointly, or either of them separately, shall be charged for each of such two horses, mares, geldings, or mules, the sum of - - -

0 2 10

Rules for charging the duties, as set forth in Schedule (F.)
No. 1. and 2.

The said duties to be charged annually, and paid by the person or persons keeping or using such horses, mares, geldings or mules, and to be payable for every horse, mare or gelding, and mule, which shall not be chargeable nor have been charged with any duty payable in that year, according to the preceding schedule marked (E.) by virtue of the rules or exemptions therein contained, except as herein-after is mentioned,

Exemptions from the duties in schedule (E.) No. 1. and 2.

Any person whatever for any horse, mare or gelding, not being by due admeasurement of the height of thirteen hands, of four inches to each hand, or which shall not at any time whatever have been used for any purpose of labour or otherwise.

Exemptions

Exemptions to the several duties as set forth in the several schedules marked (E.) and (F.)

Case I.—Any horse, mare, or gelding, belonging to his majesty, or any of the royal family.

Case II.—Any postmaster, innkeeper, or other person licensed for that purpose by the commissioners appointed to manage the duties charged on stamped vellum, parchment and paper, in respect of any horse, mare, or gelding, let to hire by him or her, in any manner where the stamp office duty payable on horses let to hire shall be duly satisfied and paid on each letting, and which shall not, on any occasion, be used for any other purpose.

Case III.—Any person duly licensed to keep any carriage whatever, to be employed as a public stage coach or carriage for the purpose of conveying passengers for hire from different places in *Great Britain*, in respect of any horse, mare or gelding, which is or shall be actually and solely used and employed by such person in drawing such stage coach or carriage from place to place for hire.

Case IV.—Any person licensed by the commissioners for hackney coaches within the cities of *London* and *Westminster*, and the suburbs thereof, to keep any hackney coach or coaches, for any horses, mares or geldings, kept for the purpose of drawing such coach in respect of the duties in schedule (E.) No. 1. and for two horses, mares or geldings, and no more, kept for the purpose of drawing each coach so licensed in respect to the duties in schedule (F.) No. 1.

Case V.—Any dealer in horses, assessed to the duties made payable by this act on such dealers, for any horse, mare, or gelding, belonging to such dealer, and kept *bona fide* for sale, and not kept or used for any other purpose or in any other manner.

Case VI.—Any person who, on account of poverty, shall be discharged from the assessment made in respect of his or her dwelling house, in pursuance of the regulations of any of the acts herein mentioned, for any horse, mare or gelding, provided such person shall not keep more than one such horse, mare or gelding, and the same shall not be let to hire.

Case VII.—Any rector, vicar, or curate, actually doing duty in the church or chapel of which he is rector, vicar, or curate, who shall not be possessed of an income of sixty pounds per annum or upwards, whether arising from ecclesiastical preferment or otherwise; and who shall not keep more than one horse, mare or gelding, for the purpose of riding, which otherwise would be chargeable with duty according to the provisions of this act, except such person who shall occasionally perform the duty appertaining to any rector, vicar, or curate,

curate, without being the regular officiating minister of the parish or place in which such duty shall be performed.

Case VIII.—Any effective officer commanding a volunteer corps claiming and returning his exemption for such number of horses, mares, or geldings as he shall have been required to keep for his majesty's service in such corps and no more, in the manner required by the said last mentioned act.

Case IX.—Any field officer not being commandant, and any adjutant of any volunteer corps, and any persons serving in any corps of yeomanry volunteer cavalry, or providing a horse, mare, or gelding for any other person serving in any such corps who shall be returned in the manner required by law as effective, and as having used any horse, mare, or gelding, for such service on the several days of muster and exercise of such corps, provided in every such last mentioned case the exemption shall be claimed and returned in the manner required by the said last-mentioned act, and a certificate shall be delivered of such effective service in the manner required by the eleventh section of an act passed in the forty-fourth year of the reign of his present majesty, intituled "An act to consolidate and amend the provisions of the several acts relating to corps of yeomanry and volunteers in Great Britain, and to make further regulations relating thereto."

Case X.—Any non-commissioned officer or private of any of the regiments of cavalry, or in the artillery, for any horse used in his majesty's service.

Provisions by 43 G. 3. c. 161. relative to assessing the duties on horses.

Persons who shall have kept any horses in the year ending on the days appointed for the commencement of the duties in the year 1804, to return lists to the assessors; and be charged accordingly.

Every person who shall have kept any horse or mule, in the course of the year ending on the day next before the day appointed for the commencement of the duty therein in the year 1804, shall, within six weeks thereafter, whether any previous notice for that purpose shall have been delivered or not, cause to be prepared true and particular lists in writing, signed by him or on his behalf, which shall contain the parish or place where such persons shall then or usually reside, and also the greatest number of horses, mares, or geldings, kept by such person for the purpose of riding, or drawing any carriage chargeable with the duty hereby made payable, at any one time within the like period; and another list shall contain the greatest number of all other horses, &c. kept by such person as aforesaid, which shall on any occasion have been used as herein mentioned; and every such person shall deliver lists to the assessor where such person shall reside, or to be left at his house, and shall be charged for the greatest number so kept or used by him within the period, by the assessors

assessors for the year commencing from that day; which assessments shall be made at the rate specified in the schedules (E. F.) and according to the lists, which shall or ought to have been returned as aforesaid, subject to the powers of surcharge hereby directed and given. *s. 27.*

If any persons retain or keep horses &c. at places where they have no houses or places of residence, or shall come into or reside in any place after the time appointed for returning the lists, not having been charged therein, the assessor, &c. of the district shall, in every case within their knowledge respectively, deliver the notices before directed, at the house where such person shall reside, or where such horses, &c. shall be kept; and all such persons, and also every person having the care and management of such horses, &c. shall deliver lists (being previously signed by them as aforesaid) to such assessor, &c. within 21 days after delivery of such notice; and also a declaration where they, or the persons to whom the horses &c. do belong, have been assessed for that year, to the said duties together with their respective places of abode, and the names of such persons: or in case no such assessment, or no sufficient assessment shall have been made, then where they shall have delivered their lists, in order to be so assessed. And in case the parties shall not have been duly or sufficiently assessed, or shall not have made any return, they shall be chargeable to the said duties, and for which returns ought to be made, either in the parish or place where such last mentioned notice shall have been delivered, as if such person actually resided there, or where such persons shall have their ordinary residence. And if any person, after receipt of such notice, shall remove, without having delivered such list or declaration, he shall forfeit 50*l.* *s. 39.*

Directions for assessing persons keeping horses, who have no fixed residence, &c.

Regulations for assessing stable-keepers, and others letting horses, &c. to hire.

And every person letting to hire any horses, so as not to be chargeable to the stamp-office duty on horses so let, shall annually return a list of the greatest number of the servants, carriages, and horses, kept by him at any time in the prior year, in like manner, and for the like period, and under the like penalties, as returns of other servants, carriages, and horses, subject to the duties hereby made payable, are directed to be made; and such list shall specify the name and place of abode of the persons for whose use or in whose service such servants, carriages, and horses, shall have been or shall be employed, and the number let to hire to every such person, and the period of each letting, according to the number thereof, which shall or ought to be contained in such list; the said duties hereby made payable shall be charged on the persons

Persons letting to hire horses so that the stamp-office duty shall not be chargeable thereon, to deliver lists of the greatest number kept in the preceding year.

sons letting or hiring such servants, carriages, and horses, as the case may require. *s.* 40.

Hirers of horses, where the stamp-office duty shall not be payable, and of servants and carriages, to return lists thereof.

And where any person shall hire, or shall have hired, any horses, so that the stamp-office duty shall not be chargeable thereon; or shall hire, or shall have hired, any servants or carriages, then such hirer shall annually return a list of the greatest number of such servants, carriages and horses, to the assessor of the parish or place where such hirer shall reside at the time such return ought to be made, in like manner, and within and for the like period, and under the like penalties as returns of other servants, &c. exempted from the annual duties by this act, are directed to be made; and every such list shall specify the name and place of abode of the persons by whom, and the period for which such respective hiring or letting shall be made. *s.* 41.

Surveyors may surcharge in case of neglect of hirers in making returns, and the progressive duties for one year to be charged on them, unless it be proved that the parties letting the same have been charged.

In case, however, the provisions of the preceding clause be not complied with, then the duties on such horses, servants, or carriages, shall be charged upon and paid by the persons, hirers of the same, by the surcharge of the assessor, surveyor, or inspector, over and above the penalty incurred for any neglect or omission; unless the persons letting the same shall have been brought into charge for the same respectively; and if any dispute shall arise, whether any charge has or has not been made, the proof thereof shall be on the hirer of such servants, carriages, and horses, so surcharged; who, on such surcharge, shall be permitted to allege the same on oath, or affirmation, or to prove the same by lawful evidence to be produced by him. But the party hiring the same shall not be exempted, unless the exemption, and the cause thereof, shall have been duly returned to the assessor as aforesaid; and where the said duties shall be chargeable on the hirers of such servants, carriages, and horses, making default, the progressive duties made payable thereon, by schedules (C.) No. 1. (D.) No. 1. and (E.) No. 1. respectively shall be charged. *s.* 42.

Stable keepers, persons letting horses, &c. to keep books, containing entries of certain particulars.

Every livery stable keeper, or other person receiving any horses or carriages to stand at livery, and also every person letting horses to hire, so as not to be chargeable to any duty payable on horses let to hire, or letting any servants or carriages, shall respectively from time to time enter in a book an account thereof, and the number thereof, and the periods of each letting, and also the names of such servants, and the descriptions of such carriages; which books shall, at all reasonable times in the day, be open to the inspection of the assessor, surveyor, or inspector of the place where such person shall reside; and every person hereby required to enter and keep such account respectively, shall, within 20 days after the 5th of July and the 10th of October 1804, and within 20 days

days after the 5th of *January* and the 5th of *April*, the 5th of *July*, and the 10th of *October* in every subsequent year, deliver a true copy in writing of every entry made therein respectively within the preceding quarter of the year, containing the several matters and things before directed, to the assessor of the place where he shall reside, for the use of the surveyor or inspector of the said duties, or to such surveyor or inspector; and, when required by such surveyor or inspector, every such person, or his or her chief servant or manager, shall make oath or affirmation of the truth of such account, according to the best of his knowledge and belief; and every such copy of the account shall, to the best of his or her knowledge or belief, express the christian and surname of every person required to be entered therein, and the place of his usual residence; and if any such person shall neglect to keep such account, or to deliver such copy thereof, or shall wilfully omit any description which ought to be contained therein, he shall forfeit 5*ol.* *s.* 43.

Penalty for neglect or omission.

And the commissioners of taxes shall cause to be prepared and issued to every person applying for the same, and leaving his name and place of abode in writing at the tax-office, or with any surveyor for the district where such applicant shall reside, proper forms for entering the accounts, hereinbefore required to be made of the carriages and horses standing at livery, or delivered to stable keepers or other persons to be kept, and of the servants kept by them, and also of servants, carriages, and horses so let to hire. And every such account shall, at the end of the year (all such entries being required to be first duly made) be signed by the party with his own proper name, in his usual manner of writing, and returned to such assessor of the parish or place where he shall reside, for the use of the surveyor or inspector of the districts, or to such surveyor or inspector as the commissioners of taxes shall direct, at the times hereinbefore required; and in default of such application, the party shall be obliged to provide proper forms for the said purpose, and shall cause all such entries to be duly made therein, and the same to be signed and delivered to the assessor, surveyor, or inspector, in like manner, on pain of forfeiting 5*ol.* for neglecting to deliver up such accounts within the time limited. *s.* 44.

Forms for entering such accounts to be had at the tax-office.

And from and after the respective days appointed for the commencement of the said duties, every gate-keeper of any turnpike road, by whom any certificate shall be filed of horses let to hire, so as not to subject the hirer thereof to any stamp-office duty; and every collector or farmer of the said stamp-office duty, to whom such certificate shall be delivered by such gate-keeper, according to the laws then in force, shall at all seasonable times, permit the surveyors or inspectors of the duties hereby made payable, to inspect such cer-

Gate keepers, by whom certificates of horses so let to hire shall be filed, and farmers of stamp-office duties to permit surveyors to inspect them.

tificates *gratis*, and to take copies thereof, or of such parts thereof, as the said surveyor shall think necessary for securing the payment of the said duties; on pain of forfeiting 100*l.* for wilfully not permitting or refusing such inspection or copy. *s.* 46.

Lists of persons
licensed to let
post horses to be
transmitted to
tax-office.

And the name and place of abode of every person licensed to let post horses by the commissioners of stamps, shall annually be transmitted to the tax office, by the said commissioners, whenever the said duties shall not be let to farm, by the farmers and collectors of the said duties. *s.* 47.

Schedule (G.) No. 1. Duties payable on dogs.

For every greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier, the annual sum of *£. s. d.*
- - - - - 0 11 6

For every dog of whatever description or denomination the same may be, where any person shall keep two or more dogs, either for his or her own use, or the use of any other person or persons, the annual sum of - - - 0 11 6

For every dog not being a greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier, kept by any person having one such dog, and no more, whether the same be kept for his or her own use, or the use of any other person or persons, the annual sum of - - - 0 7 0

The said duties to be paid by the persons respectively keeping such dogs.

Exemptions from the duties in schedule (G.)

Case I.—Any dog belonging to his majesty, or any of the royal family.

Case II.—Any person who, on account of poverty, shall be discharged from the assessment made in respect of his or her dwelling house in pursuance of the regulations of any of the acts herein mentioned, and having one dog, and no more, the same not being a greyhound, hound, pointer, setting dog, spaniel, lurcher, or terrier.

Case III.—Any person in respect of a dog or whelp, which at the time of returning the list of dogs as by this act is required, shall not actually be of the age of six calendar months.

Case IV.—Any person in respect of the whole number of hounds by him or her kept in *Great Britain*, who shall compound for the same, in any year within thirty days after the 5th day of *April* in such year, in pursuance of notice given to the collector or collectors of the said duty for any parish or place, where such person shall be liable to be assessed, of his or her intention so to do, and on payment of the full sum of thirty-four pounds sterling to such collector or collectors, for which a receipt shall be given within the period before-mentioned.

Provisions by 43 G. 3. c. 161. respecting duties on dogs.

Every person who shall have kept any dog in the course of the year ending the day before the day appointed for the commencement of the duty in 1804, shall, within 6 weeks thereafter, whether any previous notice for the purpose hath been delivered or not, cause to be prepared true and particular lists in writing, signed by such person or on his behalf, which shall contain the parish or place where such person shall then or usually reside, and also the greatest number of dogs kept by such person within the like period; distinguishing therein any greyhound, hound, pointer, setting-dog, spaniel, lurcher, or terrier, from any other dog, where only one dog shall be kept; which list shall be delivered to the assessor of the district or place, or left at his house. And such person shall be charged for the greatest number of dogs so kept at any time within the period aforesaid by the assessors for the year commencing from that day; which assessments shall be made at the rate specified in schedule (G), and according to the lists which shall, or ought to have been so returned, subject to the powers of surcharge by this act given and directed. 43 G. 3. c. 161. s. 27.

Persons keeping dogs, to return lists thereof, and be charged accordingly.

If any person shall keep dogs at any place where he shall have no fixed residence, or shall come to reside in any district after the time for returning the lists before mentioned, not being charged therein, the assessor, surveyor, or inspector of the district shall, in every case within his knowledge, at any time deliver or leave the notices before directed at the house, where such persons shall reside, or such dogs shall be kept. And such person, or the person having the charge of such dogs, shall cause such lists (being previously signed by them as aforesaid) to be delivered to such assessor, surveyor, or inspector, within 21 days after delivery of such notice: and shall also deliver a declaration where they, or the person to whom such dogs do belong, have been assessed for that year to the duties hereby imposed, together with their respective places of abode, and the names of such persons: or, in case no assessment or sufficient assessment has been made, then where they have delivered lists in order to be assessed. And in case the parties have not been duly or sufficiently assessed, or shall not have made any return, they shall be chargeable to the duties hereby made payable, and for which returns ought to be made, either in the parish or place where such last mentioned notice shall have been delivered, as if such person was actually resident therein, or in the parish or place where such person shall have their ordinary residence. And if any person, after receiving such notice, shall remove without delivering such list or declaration, he shall forfeit 50*l*. 43 G. 3. c. 161. s. 39.

Directions for assessing persons keeping dogs, and who have no fixed residence.

Schedule (II.) Duties payable by horse dealers.

Every person who shall use or exercise the trade and business of a horse dealer within the cities of *London* and *Westminster*, and the liberties of the same respectively, the parishes of *Saint Mary-le Bone* and *Saint Pancras*, in the county of *Middlesex*, the weekly bills of mortality, or the borough of *Southwark*, in the county of *Surrey*, the annual duty of - 22 10 0

Every person who shall use or exercise the trade and business of a horse dealer in any other part of *Great Britain*, the annual duty of - 11 5 0

Provisions by 43 G. 3 c. 161. regulating the duties on horse dealers.

Persons having exercised the business of a horse dealer for the period within mentioned, to give notice thereof, and be assessed accordingly.

Every person, who shall have exercised the trade or business of a horse dealer, in the course of the year ending the day next before the day appointed for the commencement of the duty in 1804, shall, within 6 weeks thereafter, whether any previous notice for the purpose hath been delivered or not, cause to be prepared a true and particular list in writing, signed by such person or on his behalf: which shall contain the parish or place where such person shall then or usually reside, and the place or places where such business hath been so exercised during the like period, and also the greatest number of horses, mares, or geldings kept by him at any time during such period, distinguishing whether they have been kept for sale or hire, or been used by him. Such list is to be delivered to, or left at the house of the assessor of the district or place, where such trade hath been exercised: and every such horse dealer shall be charged by the respective assessors for the year commencing from that day: which assessments shall be made at the rate specified in the schedule (II.) and according to the list which shall or ought to have been returned; subject to the powers of surcharge hereby given and directed. 43 G. 3. c. 161. s. 27.

Persons beginning or ceasing to carry on such trade, to give notice thereof.

Every person, who, after the day appointed for the commencement of the said duty, shall begin or cease to carry on or exercise the said trade of a horse dealer, shall, within 20 days after he shall so begin or cease to use such business, cause notice in writing to be given thereof to the assessor of the district or place where he shall reside, and the increase or decrease made thereby, and the particular duty to which he is liable, and the names of the persons who ought to return such lists. s. 29.

Horse dealers to enter accounts as told

Every horse dealer shall enter in a book an account of the number of horses kept by him, whether for sale or use, distinguishing

distinguishing the number kept for each person respectively, and to what duty the same are liable; which book shall, at all reasonable times in the day, be open to the inspection of the assessor, surveyor, or inspector of the place, where such person shall reside: and every person hereby required to enter such accounts shall, within 20 days after the 5th of *July* and the 5th of *October* 1804, and within 20 days after the 5th of *January* and the 5th of *April*, the 5th of *July* and the 5th of *October* in every subsequent year, deliver a true copy in writing of every entry made in such books during the preceding quarter, to the assessors, for the use of the inspector or surveyor, or to the inspector or surveyor himself. And when required by such surveyor or inspector, every such person, or his chief servant or manager, shall make oath or affirmation of the truth of such account; every copy whereof shall, to the best of his knowledge or belief, express the christian and surname of every person therein required to be entered, and the place of his usual residence, on pain of forfeiting 50*l.* for neglecting to keep such account, or to deliver such copy thereof, or for wilfully omitting any description that ought to be inserted therein. *f. 43.*

in books, to be inspected by the assessors, &c.

And proper forms for entering such accounts shall be prepared by the commissioners of taxes, and issued to every person applying for the same, and leaving his name and place of abode in writing at the tax-office, or with any surveyor of the district where such applicant shall reside. And every such account shall, at the end of the year (all such entries being required to be first duly made) be signed by the party with his own proper name, in his usual manner of writing, and returned in like manner as aforesaid. And, in default of such application, the party shall provide, fill up, sign and deliver the proper forms to the assessor, surveyor, or inspector in like manner, on pain of forfeiting 50*l.* for neglecting to deliver up such accounts within the time limited. *f. 44.*

Proper forms for such accounts to be had at the tax office.

Every horse dealer, who shall carry on that trade at divers places, and is, or may be desirous of paying the duties at one of such places, (such places not being within different limits) as set forth in schedule (H.) shall deliver a declaration at each place, declaring therein the particular place, where he intends to be charged for the duty, to enable the assessor at such place to charge the same accordingly, on pain, for offending in any of the particulars before mentioned, of being chargeable at either place, and, for neglecting to make such return, of forfeiting 20*l.* But every horse dealer in *London*, *Westminster*, the liberties of the same, the parishes of *St. Mary-le-bone*, and *St. Pancras*, *Middlesex*, the weekly bills of mortality, or the *Borough of Southwark*, shall be charged

Horse dealers trading at different places, to deliver returns at each, and declare where they will be charged.

and pay the duties in respect thereof in such of the said places where such business shall be carried on within the last mentioned limits. *s.* 48.

Schedule (I). Duties payable by persons in respect of hair powder used or worn by them.

By every person who shall have used or worn any *£. s. d.*
hair powder within the period limited by any
of the acts herein mentioned, the annual sum
of - - - - - 1 3 0

Rules for charging the said duties.

1. The said rate or duty to extend to every sort or composition of powder used or worn by any person as an article of, or in, or about, his or her dress, by whatever name the same shall be distinguished, and to be assessed upon and paid by the person having used or worn the same within the year preceding the term for which the assessment ought to be made except as herein-after mentioned.

2. The unmarried daughters of any person shall not be chargeable with the said last-mentioned duties by this act made payable, or with the duties payable at the time of passing this act, or be required to make any return under this act or the acts in force at the time of passing this act, provided the parent of such daughters shall have more than two unmarried daughters, and shall have given an account in any list by him or her delivered under this act, or the acts now in force, of the whole number of such daughters, and shall have required to be assessed and charged for the whole number by one assessment, in which case every such parent shall be assessed and charged in respect to the whole number of such daughters in twice the sum so payable on any single person for his or her having worn hair powder which shall exempt the whole number of daughters from the said duties, and each of them; and that neither the person giving such account, or any of the persons returned in such account, in respect of whom such charge shall be made, shall in such case be liable to any of the penalties imposed by this act, or the acts now in force, by reason of the duty not being paid for the whole number of such daughters.

3. The master of any servant who shall have declared his intention to pay the duty which may be charged or chargeable as aforesaid in respect of such servant, and shall in any list returned by him have given a true account of all the servants by him kept, in respect of whom such duty shall be payable, setting forth the several capacities in which such servants are respectively kept, shall be charged for such servants; and in every

every such case, every such servant shall be deemed to be exempted from the said duties during his continuance in the same service; and also every servant, who shall come into the service of such master in the room of such servant named therein, to serve in the same capacity during the year in which the duty shall be so charged; and no servant named in such list, or any servant serving such master in any capacity mentioned in such list, shall, during the year for which such duty shall be charged, be required for himself to make any such return, or to pay the said duties, or either of them, nor be liable to any penalty by reason of not making any such return, or not paying the said duty.

Exemptions from the said duties.

1. Any of the royal family, and any of the menial servants of his majesty, or any of the royal family.

2. Any officer in actual employ in his majesty's navy under the rank of commander; or any officer holding a commission in his majesty's navy under the said rank, who shall be employed on the establishment of the royal hospital at *Greenwich*; or any subaltern or non-commissioned officer or private man belonging to any regiment in the army, artillery, militia, division of marines, or corps of engineers; or any person inrolled and actually serving in any volunteer corps or body of men associated for the defence of any city, town, or place, and for maintaining public tranquillity and good order within the same, whether of infantry or cavalry, which now are or hereafter shall be raised; provided that every such person inrolled and serving as aforesaid, so claiming to be exempted, shall make such return as by this act is directed with respect to the claim of exemptions; provided, that every such claim shall be proved by the certificate of the commanding officer of the corps, in the form in the schedule to this act annexed, marked (N.), and according to the regulations of this act in other cases of exemption by such volunteers.

3. Any clergyman who shall not be possessed of an annual income of 100*l.* or upwards, whether arising from ecclesiastical preferment or otherwise; or any preacher or preachers of any congregation of dissenters, or any person dissenting from the church of *England*, in holy orders, or pretended holy orders, who now is or at any time hereafter shall be entitled to the benefit of the statute made in the first year of the reign of the late king *William* and queen *Mary*, intitled, "An act for exempting their majesties protestant subjects dissenting from the church of *England* from the penalties of certain laws;" or of the statute made in the nineteenth year of the reign of his present majesty, intitled, "An act for the further relief of protestant dissenting ministers and school-

"masters;" or of the statute made in the thirty-first year of the reign of his present majesty, intituled, "An act to relieve, upon conditions and under restrictions, the persons therein described, from certain penalties and disabilities to which papists or persons professing the popish religion, are by law subject," and who shall not be possessed of an annual income of 100*l.* or upwards, however arising; and the income arising from any benefice or benefices shall be estimated on the average amount thereof, computed on the period of seven years next preceding that on which such exemption shall be claimed.

Schedule (K.) Duties payable by persons in respect of any armorial bearing or ensign, used or worn by them, by whatever name the same shall be called ; viz.

By every such person chargeable with any duty made payable by this act, for any coach or other carriage, the annual sum of £. s. d.
- - - - - 2 8 0

By every such person not chargeable for any such coach or other carriage, but who shall be chargeable to any of the duties on inhabited houses, or to the duties on houses, windows, or lights, made payable by this act, the annual sum of - - - - - £ 4 0

By every such person not chargeable for any such coach or other carriage, nor being chargeable to the said duties on inhabited houses, or to the duties on houses, windows, or lights, the annual sum of - - - 0 12 0

The said duties to be paid by every person having used or caused to be used any armorial bearing or ensign, by whatever name the same is or shall be called, within the year preceding the term for which the assessment ought to be made, and to extend to every person who within the said period shall have been possessed of, or shall have kept or had any coach or other carriage chargeable with the duty by this act, or any seal, plate, or other article, on which carriage, seal, plate, or other article, any armorial bearing or ensign is or shall have been, during the said period, painted, engraved, marked, or affixed, and whether such armorial bearing or ensign shall be registered in the college of arms or not.

Exemptions from the said duties as set forth in schedule (K.)

Any of the royal family, or any person who shall, by right of office or by appointment, have worn or used any of the arms or insignia worn or used by the royal family, or used in any city, borough, or town corporate, in that part of Great Britain before described.

Provisions

Provisions by 43 G. 3. c. 161. respecting the assessment of duties for wearing hair powder and armorial bearings.

Every person, who shall have used or worn hair powder, or any armorial bearing or ensign, in the course of the year ending the day next before the day appointed for the commencement of the said duties in 1804, shall, within 6 weeks thereafter, whether any previous notice for the purpose hath been delivered or not, cause to be prepared true and particular lists in writing, signed by such person, or on his behalf; which shall contain the parish or place where such person shall then or usually reside, and shall distinguish therein the amount of the particular duty or duties to which such person is liable, and whether he is a housekeeper or one of the family, or a lodger, inmate, apprentice, or servant abiding in the house of any person; and every such list, returned by any occupier of any house or distinct apartment, shall contain the name and places of abode of the persons resident therein, distinguishing the like circumstances: and in case such householder or occupier, having unmarried daughters or servants, shall be desirous of being personally charged for them respectively, as herein allowed, then such lists shall contain the number and names of such unmarried daughters and of such servants (together with the capacities in which they serve) so to be charged to him. These lists are to be delivered to the assessors of the district or place, or be left at their houses: and such person, having worn hair powder or armorial bearings, shall be charged by the respective assessors for the year commencing from that day: which assessments shall be made at the rates specified in the schedules (I.) (K.) and according to the lists which shall or ought to have been returned; subject to the powers of surcharge, by this act given and directed. 43 G. 3. c. 161. s. 27.

Persons having worn hair powder or armorial bearings, to return lists to the assessors, and be charged accordingly.

Every person who, after the day appointed for the commencement of the said duties, shall begin, or cease to wear or use hair powder, or armorial bearings, or ensigns, shall, within 20 days after he shall so begin or cease to wear them, cause notice thereof in writing to be given to the assessor of the district or place where he shall reside, and the increase or decrease made thereby, and the particular rate or duty to which he is liable, as having worn or used hair powder or armorial bearings, and the names of the persons who ought to return such lists. s. 29.

Persons beginning or ceasing to wear hair powder or armorial bearings, to give notice thereof.

Schedule (L.) Duties made payable in respect of killing game.

Upon every person who shall use any dog, gun, net, or other engine, for the purpose of taking or killing any game whatever, or any woodcock, snipe, quail or landrail, or any conies, in any part of *Great Britain*: £. s. d.

If such person shall be a servant to any person duly charged in respect of such servant to the duties granted on servants by this act, and shall use any dog, gun, net, or other engine, for any of the purposes before mentioned, upon any manor or royalty in *England, Wales, or Berwick-upon-Tweed*, or upon any lands in *Scotland*, by virtue of any deputation or appointment, duly registered or entered as gamekeeper thereto, there shall be charged the annual sum of

- - - 1 1 0

And if such person as last aforesaid shall not be a servant for whom the said duties on servants shall be charged, there shall be charged the annual sum of

- - - 3 3 0

Upon every other person who shall use any dog, gun, net, or other engine, for any of the purposes before-mentioned, there shall be charged the annual sum of

- - - 3 3 0

Exceptions to the above duties.

1. The taking of woodcocks and snipes with nets or springes.
2. The taking or destroying of conies in warrens, or in any inclosed ground whatever, or by any person in lands in his or her occupation, either by himself or herself, or by his or her direction or command.

Rules for charging the said last-mentioned duties.

1. Every person who intends to use or shall use at any time after the thirtieth day of *June* one thousand eight hundred and eight, any dog, gun, net, or other engine for any of the purposes mentioned in the schedule to this act annexed, marked (L.) shall, before he shall so use the same in any year, pay or cause to be paid in each year unto the collectors of the duties mentioned or referred to in the other schedules of this act, for the parish, ward, or place where he shall reside, if in *England*, or to the collector of the cesa, or his deputy, for the shire, county, borough, or place, where he shall reside, if in *Scotland*, or one of them respectively as aforesaid

aforesaid for the time being, the duty hereby made payable, and shall obtain a certificate thereof in the manner herein directed ; which certificate shall continue in force until and upon the fifth day of *April* next after the time of issuing the same, and no longer.

2. Every collector on application to him made by any person residing within the limits of his collection, and on payment to such collector of the duty hereby made payable, shall give a receipt for the same, which receipt shall be signed by such collector, and made out conformable to such of the forms for certificates in the schedule to this act annexed, as the case may require ; and every such receipt shall be a charge on the parish or place for which such collector shall be appointed for the sum therein expressed, in like manner and to the like effect as if the said sum had been previously assessed and levied by such collector under the warrant of the commissioners acting in the execution of this act, for which receipt the said collector shall be entitled to demand and receive from such person, the sum of one shilling over and above the said duty, and no more, which sum shall be deemed the compensation to such collector for his pains and care in executing this act ; and the duty so received shall be paid to the receiver general or his deputy, at his or their next receipt of duties, in full and without deduction ; provided that the receipts given for the duties contained in the schedule shall not be liable to any stamp duty whatever.

3. Every such receipt being delivered to the clerk of the commissioners acting for the district where the person aforesaid shall reside, shall be exchanged for a certificate made out in one of the forms in the schedule to this act annexed, marked (N.) corresponding with such receipt, which certificate the said clerk is hereby required, on demand, to make out and deliver gratis to such person in exchange for the said receipt.

4. The said receipts, so exchanged, shall severally be entered by the said clerks respectively in books to be kept for that purpose, in the manner to be directed by the commissioners for the affairs of taxes ; and the said books, together with the said receipts, being exhibited to the commissioners acting in the execution of this act for the district, and examined by them, shall be a sufficient authority to them from time to time to cause an assessment to be made on the several persons mentioned in such receipts in the respective sums paid by them, which assessments shall be of the like force and effect, in all respects, and shall be as binding on the several collectors and others acting in the execution of this act, and on the several parishes and places for which such collectors shall have been respectively appointed, as any assessment to be
made

made by the said commissioners respectively under the regulations of the said acts under which they act as commissioners; and the said commissioners shall return duplicates thereof to the receiver general, and to the commissioners for the affairs of taxes, in the manner directed by the said acts.

5. The commissioners for the affairs of taxes shall cause a sufficient number of receipts to be distributed amongst the several clerks, and by them to the several collectors in their respective districts, and the said clerks respectively shall be accountable to the said commissioners for the affairs of taxes for the same; and the several collectors shall be accountable to the respective clerks for the same, and the said commissioners for the affairs of taxes shall also cause a sufficient number of forms to be used for certificates, according to the forms specified in the schedule to this act annexed, marked (N.) to be distributed to the respective clerks in like manner.

6. In any district wherein no clerk shall be appointed to act in the execution of the said acts, the surveyor of the same district shall execute the duty of such clerk in all matters and things herein required to be done by such clerk, and in every such case the certificates herein required shall and may be issued by such surveyor, according to the directions of this act; and in every place for which one collector only shall be appointed, who shall be chargeable to the duty contained in this schedule, an acknowledgement in writing under the hand of such collector, that he is chargeable with the said duty, and delivered to such clerk or surveyor respectively as aforesaid, shall be a sufficient authority for such clerk or surveyor to issue a certificate to such collector, and to make an assessment of the said duty upon such collector as in other cases under this act.

7. Every master or mistress charged or liable to be charged to the duties on servants mentioned in the said schedule marked (C.) No. 1. annexed to this act, in respect of any gamekeeper, whether such person shall have been deputed or appointed by such master or mistress, or by any other person or persons, and every person granting a deputation or appointment to the servant of any other person, who shall be duly charged to the said duty on servants, in respect of such servant, whether as gamekeeper, or in any other capacity, with power and authority to use any dog, gun, net, or other engine, for any of the purposes mentioned in this schedule, shall be at liberty to obtain a receipt and certificate on behalf of such servant, on payment of the duty for the same, in the manner before directed; and such receipt and certificate shall be a sufficient authority to assess the master or mistress, or person granting such deputation or appointment, and obtaining such receipt and certificate as aforesaid, and the certificate

cate to be issued thereupon, shall be deemed and construed to exempt the servant or servants named therein, during his or their continuance in the same capacity and service; and also to exempt any servant or servants of the same master or mistress who shall succeed to the deputation or appointment of the same manor or royalty, or lands, within the year for which the duty shall be so assessed, for and during the remainder of such year; and no such servant in whose behalf a receipt and certificate hath been duly obtained as aforesaid, shall be required to obtain a certificate for himself, nor be liable to the duty hereby granted, nor to any penalty by reason of not obtaining a certificate in his own name, or for not paying the said duty: Provided always, that every certificate granted under this act to any person acting under any deputation or appointment, shall, upon the revocation of such deputation or appointment, be from thenceforth void and of no further effect, as to the person therein deputed or appointed; provided, that if any lord or lady of any manor in *England, Wales, or Berwick-upon-Tweed*, or proprietor of lands in *Scotland*, shall, on the revocation of any deputation or appointment by virtue of which a certificate hath been granted for any year make a new deputation or appointment within the same year, to any person in his or her service, or in the service of the same master or mistress who shall have been charged, as well to the duties on servants as to the game duties granted by this act, it shall be lawful for the clerk to the commissioners of the district, and every such clerk is hereby required in such case to renew the certificate for the remainder of that year, in behalf of the person so newly appointed, without any duty or fee, by endorsing on such certificate the name and place of abode of the person to whom such last-mentioned deputation or appointment had been granted, and declaring the same to be a renewed certificate, free of duty or fee.

8. Neither the assessment of the duty hereby imposed, nor the payment thereof, nor the certificate delivered, nor any thing herein contained or done in pursuance of this act, shall authorize or enable any person to use any dog, gun, net or other engine, for any of the purposes mentioned in this schedule, at any time or times, or in manner prohibited by any law in force at and immediately before the passing of this act, nor unless such person shall be duly qualified so to do, under and by virtue of the laws in being; and all penalties and forfeitures, actions and suits, shall and may be prosecuted and maintained for such offences as if this act had not been made.

9. No assessment or certificate under this act, or payment of the duty hereby imposed, by or for any person acting under a deputation or appointment, shall be received in evi-

dence, or be available in law or equity, in any suit or prosecution under this act, where proof shall be given of using any dog, gun, net, or other engine for any of the purposes mentioned in this schedule, out of the precincts or limits of the manor, royalty, or lands for which such deputation or appointment was made or granted.

10. If any person shall be found using any dog, gun, net, or other engine in *Great Britain*, for any of the purposes mentioned in this schedule in respect whereof such person shall be chargeable as aforesaid, by any assessor or collector of the parish where any such person shall then be, or by any commissioner for the execution of this act, acting for the county, riding, division or place in which such person shall then be, or by any lord or lady, or gamekeeper of the manor, royalty or lands wherein such person shall then be, or by any inspector or surveyor of taxes acting in the execution of this act for the district in which such person shall then be, or by any person duly assessed to the duties granted in this schedule, or by the owner, landlord, lessee, or occupier of the land in which such person shall then be, it shall be lawful for such assessor, collector, commissioner or gamekeeper, inspector or surveyor, or other person assessed as aforesaid, or such owner, landlord, lessee, or occupier of land as aforesaid, to demand and require from the person so using such dog, gun, net, or other engine, the production of a certificate issued to him for that purpose, which certificate every such person is hereby required to produce to the person so demanding the same, and permit him to read the same, and (if he shall think fit) to take a copy thereof or any part thereof; or in case no such certificate shall be produced to the person demanding the same as aforesaid, then it shall be lawful for the person having made such demand to require the person so using such dog, gun, net, or other engine, forthwith to declare to him his christian and surname, and place of residence, and the parish or place (if any) in which he shall have been assessed to the duties by this act granted; and if any such person shall, after such demand made, wilfully refuse to produce and shew a certificate issued to him for that purpose, or in default thereof as aforesaid, to give in to the person so demanding the same his christian and surname, and place of residence, and the parish or place (if any) in which he shall have been assessed, or shall produce any false or fictitious certificate, or give any false or fictitious name, place of residence, or place of assessment, every such person shall forfeit and pay the sum of twenty pounds, to be sued for, recovered, and applied in like manner as any penalty may be sued for, recovered, and applied by the acts herein mentioned, relating to the duties under the manage-
ment

ment of the commissioners for the affairs of taxes; provided, that the commissioners before whom the information for the said penalty shall be made, shall also be justices of the peace of and for the same county, riding, division, or place where the said offence shall be committed.

11. The commissioners for the affairs of taxes shall once, or oftener, in every year, as soon as conveniently may be after such certificates shall have been issued, cause the names and residences of the several persons to or for whom such certificates have been granted for that year, in each county in *Great Britain*, distinguishing the persons acting under any deputations or appointments from others, and the manors, royalties, or lands, for which deputations or appointments have been granted; and also distinguishing the rate of duty assessed, to be inserted in some newspaper circulated in each respective county, or in such other newspaper, and in such manner as to them shall seem proper.

12. If any person or persons shall, after the thirtieth day of *June* 1808, use any dog, gun, net, or other engine, for any of the purposes mentioned in this schedule, without having obtained such certificate as is directed by this act, in order to an assessment for the year wherein such person or persons shall so use such dog, gun, net or other engine, every such person shall be liable to the duty of 3*l.* 3*s.* in the said schedule mentioned for that year, and also shall forfeit and pay the sum of 20*l.* over and above the said duty; and the said duty shall be assessed by way of surcharge, according to the directions of the said acts respectively, in the district where the offence shall be committed; and the said penalty shall be sued for in like form and manner as any penalty may be sued for, prosecuted, and recovered by the acts herein-mentioned, relating to the duties under the management of the commissioners for the affairs of taxes, or any of the said acts.

Exemptions from the duties in schedule (L.)

1. Any of the Royal Family.

Schedule (M.) No. 1. Further exemptions from the several duties in the several schedules marked (C.) (D.) (E.) and (G.)

All persons having ordinarily resided in *Ireland* before the commencement of the session of parliament in the 43 G. 3. and being members of either house of parliament, whether on the part of *Ireland*, or for any place in *Great Britain*, and all persons who shall hereafter be members of the said parliament as aforesaid, and who shall have ordinarily resided in *Ireland* previous to the commencement of the sessions of parliament

liament in which they shall respectively serve in parliament, and all persons having ordinarily resided in *Ireland* as aforesaid, or who shall hereafter be ordinarily resident therein, and now holding or who shall hereafter hold offices of public employments in *Ireland*, and are now residing in *Great Britain*, or who shall hereafter reside in *Great Britain*, with the approbation or by the order or direction of the lord lieutenant or other chief governor or chief governors of *Ireland* for the time being, or of his or their chief secretary for the time being, and which be certified under the hand of the lord lieutenant, chief governor or chief governors, or his or their chief secretary, to be therein resident for the purposes of assisting in the execution of public business, shall be wholly discharged and exempted from the duties set forth in the schedules to this act annexed, marked (C.), (D.), (E.), and (G.); provided that this exemption shall not extend to any person ordinarily resident in *Ireland* as aforesaid, being a member of either house of parliament of the united kingdom, who hath resided or shall reside in *Great Britain* longer than during the session of parliament, and 40 days before and 40 days after each session, nor to any article on which a duty is by this act made payable, which shall be retained, kept, employed, or used by such person in *Great Britain*, during the residence of such person in *Ireland*: Provided also, that this exemption shall not extend to any person ordinarily resident in *Ireland* as aforesaid, holding an office or public employment in *Ireland*, unless the approbation in writing, or such order or direction of the said lord lieutenant or other chief governor or chief governors of *Ireland* for the time being, or of his or their chief secretary for the time being, and a description of the place of abode in *Great Britain* of the person respectively holding such offices or employment shall have been before the passing of this act delivered into the office of the commissioners for the affairs of taxes in *Somerfet Place*, or shall be so delivered within 20 days after the passing of this act, with respect to persons then in *Great Britain*, or within 30 days after the arrival in *Great Britain* of such persons respectively, who shall thereafter arrive: Provided also, that no person shall, for the purposes of claiming this exemption, be deemed to be ordinarily resident in *Ireland*, unless he shall reside therein during such portion of the year as is not covered by the privilege herein provided: And, for the better ascertaining the fact of such residence, every person claiming the benefit of this exemption, shall verify the same upon oath (if required) before the commissioners acting in the execution of this act, in the district where such person shall reside.

Schedule (M.) No. 2. Further exemptions from the several duties in the several schedules, marked (C.) (D.) and (E.)

Any sheriff of any county, or any mayor or other officer in any corporation or Royal Burgh, serving an annual office therein, who during such year of service shall have kept or shall keep any number of servants, carriages, or horses, greater than the number such persons was assessed to prior to the year of such service, and who shall have been assessed for such greater number for one year, shall be exempt from farther assessment for such greater number for any other year, although such year of service may have run into a second year of assessment.

Schedule (N.)

(1.)—Form of certificate to be delivered by members of volunteer corps.

I, *commanding officer of the*
do hereby certify, in pursuance of an act passed in the forty-eighth year of the reign of his present majesty, intituled, an act [here insert the title of this act,] that the several persons herein named and described are severally enrolled and serving in the said corps, and have duly attended at the muster and exercise of the said corps for *days*, in the course of the year next preceeding the date hereof, which muster rolls have been duly returned, testifying the same pursuant to the said act.

(Signed) *Commanding officer.*

Dated the *day of*

(2.)—Form of certificate to be issued to every gamekeeper, being a servant for whom the master or mistress, or the lord or lady, or other proprietor of the manor or royalty (if in England) [or, lands, if in Scotland] shall be duly assessed to the duty on servants.

N^o Game duty certificate (A.)

[To be used when the servant pays the duty.]

By A. B. clerk to the commissioners acting in the execution of the acts for assessed taxes, for the division of L., in the county of L.

Received from C. D. residing in the parish [or, township] of [here name the parish or township] in the said county, an assessed servant of E. F. [here name the master or mistress] of [here name the residence of the master or mistress] (in exchange for this certificate, a receipt under the hand of G. H. one of the collectors of assessed taxes for the said parish [or, township])

of [here name the parish or township], for the sum of one guinea, as the game duty chargeable upon the said C. D. in respect of his deputation as gamekeeper of the manor or royalty of K., in the said county (if the certificate be granted in England,) (or if in Scotland, in respect of his appointment of gamekeeper of the lands of K., in the said county.) Given in pursuance of an act passed in the forty-eighth year of the reign of George the third, and certified the day in the year of our Lord

(Signed)

Clerk.

This certificate will expire on the day of

(3.)—N^o Game duty certificate (B.)

[To be used when the master pays the duty.]

By A. B. clerk to the commissioners acting in the execution of the acts for assessed taxes for the division of L., in the county of L.

Received from E. F. [here name the master or mistress] residing in the parish [or, place] of [here name the residence of the master or mistress] in the said county, on behalf of C. D. an assessed servant of the said E. F. (in exchange for his certificate), a receipt under the hand of G. H., one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township], for the sum of one guinea, as the game duty chargeable upon the said servant in respect of his deputation as gamekeeper of the manor or royalty of K., in the said county, (if the certificate be granted in England,) (or if in Scotland, in respect of his appointment as gamekeeper of the lands of K., in the said county.) Given in pursuance of an act passed in the forty-eighth year of the reign of George the third, and certified the day of in the year of our Lord

(Signed)

Clerk.

This certificate will expire on the day of

(4.)—Form of certificate to be issued to every gamekeeper not being an assessed servant to any person or persons.

N^o Game duty certificate (C.)

By A. B. clerk to the commissioners acting in the execution of the acts for assessed taxes for the division of L., in the county of L.

Received from C. D. residing in the parish, [or, township] of [here name the parish or township] in the said county (in exchange for his certificate,) a receipt under the hand of G. H. one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township], for the sum

sum of three guineas, for the game duty chargeable upon the said C. D. in respect of his deputation as gamekeeper of the manor or royalty of K. in the said county, (if the certificate be granted in England,) (or if in Scotland, in respect of his appointment as gamekeeper of the lands of K. in the said county,) the said C. D. not being an assessed servant to any person or persons. Given in pursuance of an act passed in the forty-eighth year of the reign of George the third, and certified the day of

(Signed)

Clerk.

This certificate will expire on the day of

(5.)—Form of certificate to be issued to every person not being a gamekeeper.

N^o Game duty certificate (D.)

By A. B. clerk to the commissioners acting in the execution of the acts for assessed taxes for the division of I. in the county of L.

Received from C. D. residing in the parish [or, township] of [here name the parish or township] in the said county (in exchange for this certificate) a receipt under the hand of G. H. one of the collectors of assessed taxes for the said parish [or, township] of [here name the parish or township] for the sum of three guineas for the game duty, chargeable upon the said C. D. in his own right, throughout Great Britain. Given in pursuance of an act passed in the forty-eighth year of the reign of George the third, and certified the day of

in the year of our Lord.

(Signed)

Clerk.

This certificate will expire on the day of

(8.) Additional act relating to taxed carts and gardeners.

By the 50 G. 3. c. 104. s. 1. certain new duties are granted as in the schedule to the act annexed; and by s. 2. these duties are to be levied under the 48 G. 3. c. 55.; and by s. 4. the persons acting as commissioners under that act, are also commissioners for the present act.

s. 4. Every maker of any carriage called a taxed cart, built and constructed according to the regulations of the 48 G. 3. c. 55. or of this act, for sale, shall cause his name and place of abode, and the places where such business shall be carried on, to be returned to the commissioners; in like manner as is required to be done by makers for sale of other carriages chargeable with duty, and under the like penalty; and every such maker shall also from time to time enter in a book the number of such carriages by him or her built and constructed

Makers of tax carts to return their names and keep accounts of carts sold.

for sale as taxed carts, and the names and places of abode of the persons to whom sold, and the full value of the same, together with the full and just price or other consideration for the same, and the day on which each such carriage was delivered or sent out of his shop or warehouse; all which books shall at all reasonable times in the day-time be open to the inspection of the assessor or collector, surveyor or inspector, of or for the place where such maker shall reside; and every person hereby required to enter and keep such account, shall within twenty-one days after the 10th Oct. and 5th April in every year after the 5th April 1810, deliver a true copy in writing of every entry made in such book within the preceding half year, to the assessors or collectors of the ward, &c. or one of them, where such maker shall reside; and when required so to do by such surveyor or inspector, every such maker, his or her chief servant, workman, or manager, shall make oath, or affirmation, of the truth of such account according to the best of his knowledge and belief; and if any maker shall neglect to keep such account, or to deliver such copy thereof, or shall wilfully omit any description, matter, or thing which ought to be contained therein, or shall make therein any false entry of any particular which ought to be contained therein, he offending shall forfeit not exceeding 20l. to be recovered or levied by any act or acts in relation to the duties of assessed taxes.

Penalty 20l.

Makers of taxed carts to paint the price and owner's name before delivery; such carts not to be used without those particulars painted thereon.

By s. 5. Every maker of carriages herein called taxed carts for sale, shall before the delivery out of his shop, warehouse or premises, to the purchaser, cause the name and place of abode of the purchaser, and the words "A taxed cart," and also the name and place of abode of the maker, and the full value, or the actual price or consideration paid, to be painted in a conspicuous part of the outside of the back part of the said carriage, in the words at length, and in roman characters in black letters on a white ground, or in white letters on a black ground, each of the said letters being at least one inch in length, and of a breadth in proportion; and if he shall deliver the same, or permit or suffer the same to be delivered from his shop, &c. to the purchaser thereof, without having first caused the several particulars before mentioned to be painted as aforesaid; or if any person shall use any such carriage built or constructed or purchased after the passing of this act without the particulars aforesaid, and each and every of them, being painted thereon in form and manner aforesaid, every such person shall forfeit not exceeding 20l. to be recovered or levied as aforesaid.

Common stage cars may be used in certain cases.

And by s. 6. Every cart having the name and place of residence of the owner, and the words "Common Stage Cart" legibly painted thereon, which shall be kept truly and without fraud

fraud to be used wholly in the affairs of husbandry, or in the carriage of goods in the course of trade, although the owner or his servants occasionally ride therein when laden, or when returning from any place to which or when going to any place from which any load shall have been or shall be to be carried in such cart in the course of husbandry or trade, and although such cart shall be used for the purpose of riding therein or thereon, on the occasions and in the manner herein mentioned; that is to say, for the purpose of procuring medical assistance for the owner or any of his family, or for the purpose of carrying goods to or bringing back goods from market, or carrying the owner or any of his family to or from any place of public worship, or to or from any election of members to serve in parliament, or to or from any courts of justice, or to or from any meeting of commissioners of taxes, shall be exempted from the duties granted by the said act or this act on carriages; provided such cart shall not have been let to hire for any of the said purposes.

And by s. 7. Whenever any question shall arise, whether from the manner in which any carriage with less than four wheels shall have been built or constructed, or shall be used, or from the omission of painting thereon any of the particulars required by the said act or this act, or from painting the same contrary to the regulations, the said commissioners shall give notice to the proprietor, or the person having the possession to produce the same before the said commissioners on a day and at a place to be named in such notice, and upon the production thereof, the said commissioners, after due inspection thereof, shall adjudge the rate of duty at which the said carriage shall be charged according to the best of their judgment and belief, subject to a case to be stated pursuant to the directions of the acts relating to the duties of assessed taxes, if such case shall be lawfully demanded; and if after such inspection any doubt shall remain with the said commissioners as to which of one or other of the said rates of duty the said carriage ought to be charged, it shall be lawful for them to charge such carriage to the lower of the said rates of duty, if they shall be of opinion that the particulars on which they entertained the doubt were not wilfully or fraudulently contrived for the purpose of evading the higher of the said rates of duty, subject to such case aforesaid; provided, that in every case where any reasonable doubt as aforesaid shall have arisen, and the commissioners shall be of opinion that the same hath been occasioned without any fraudulent contrivance or intention to defraud the revenue, it shall be lawful for them to remit and strike off the whole of the double duty which might have arisen on any increase of the duty chargeable in such case.

On questions arising how carriages shall have been constructed, or of omission, commissioners to give notice to proprietor to produce the same before them for their adjudging the duty.

Exemption of
duty on windows
in any room
used for carrying
on manufacture.

And by s. 8. From and after the passing of this act any window or light in any room of a dwelling house used wholly for the purpose of carrying on any manufacture therein, and not having any internal communication with such dwelling house or any part thereof, although adjoining thereto and in other respects a part thereof, shall be exempt from the duties on windows or lights granted by 48 G. 3. c. 55.

Schedules to which this Act refers.

A Schedule of the Duties payable on Gardeners acting in the Capacities herein mentioned.

No. I.

For every gardener who shall have contracted for the keeping of any garden wherein the constant labour of one person shall not be necessary, there shall be charged the annual sum of £. s. d.
0 6 0
and no more.

To be charged under the same rules and subject to the same exemptions as the duties contained in the schedule of the 48 G. 3. c. 55. marked C. No. II. are directed to be charged.

A Schedule of the Duties payable on Carriages called Taxed Carts.

No I.

For every carriage called a taxed cart, built and constructed according to the regulations of the said act in every respect, the original price of which shall not have exceeded or the value whereof shall not at any time exceed the sum of fifteen pounds sterling, and which shall not at any time be used with a covered or stuffed seat, or with a covered footboard or apron thereto fixed or not fixed, there shall be charged the annual sum of £. s. d.
1 6 0

No. II.

For every such carriage called a taxed cart, built and constructed with a spring or springs of any materials whatever, (except of iron, steel, or any other metallic substance, or any composition of iron, steel, or other metallic substance, either wholly or in part), the original

original price of which carriage shall not have exceeded or the value whereof shall not at any time exceed the sum of twenty-one pounds sterling, or which shall be used with a stuffed seat or cushion, or with a covered foot-board or apron thereto fixed or not fixed, there shall be charged the annual sum of - 2 10 0

Save and except always, all carriages built and constructed as aforesaid, and of the respective values herein mentioned, and used in manner before mentioned, belonging to any person liable to be assessed to the duties granted by the said act in respect of a four-wheeled carriage, or liable to be assessed to the duties granted by the said act on male servants, in respect of two such male servants, which persons respectively shall be charged for such carriages although built, constructed, valued, and used as aforesaid at the rate prescribed in the schedule of the said act marked D. No. II, or according to the schedule of this act marked No. III. as the case may require.

The said several duties on taxed carts to be charged under the same rules, and subject to the same exemptions as the duties contained in the schedule of the said act of the forty-eighth year aforesaid, marked D. No. IV. are directed to be charged.

A Schedule of the Duties payable on Carriages with less than Four Wheels.

No. III.

For every carriage with less than four wheels chargeable by the said act of the forty-eighth of his present majesty's reign with the duty of 5*l.* 18*s.* if drawn by one horse, mare or gelding, and no more, there shall be charged the like amount of duty for every such carriage drawn by one horse, mare, gelding or mule, and no more, viz. the annual sum of - 5 18 0

For every such carriage chargeable by the said act with the duty of 8*l.* 5*s.* if drawn by two or more horses, mares, or geldings, there shall be charged the like amount of duty for every such carriage drawn by more than one horse, mare, gelding or mule, viz. the annual sum of - 8 5 0

And for any additional body successively used on the same carriage or number of wheels chargeable by the said act with the further duty of

27. 16s. there shall be charged the like amount of further duty, for every additional body successively used on the same carriage or number of wheels, if drawn in the manner herein mentioned, viz. the further annual sum of - 2 16 0

The said several duties on carriages with less than four wheels to be charged according to the rule in the schedule to the said act marked D. No. II. and to extend to all carriages with less than four wheels mentioned or described in the said act, and which shall not be built and contracted or used according to the regulations prescribed by the said act or this act for taxed carts.

A Schedule of the Duties payable by Makers of Carriages called Taxed Carts chargeable with Duty by the said Act or this Act, and on the Sale of such Carriages by such Makers.

Upon every maker or makers of any carriage built, constructed and used according to the regulations prescribed by law for taxed carts, and of the values limited either by the schedule of the said act of the forty-eighth year aforesaid, or by this schedule, there shall be charged the annual duty of - - - £. s. d.
0 3 6

By every such maker or makers of carriages as aforesaid, for every such carriage which he, she, or they shall make, build or construct for sale, the sum of - - - 0 2 6

The said several duties on such makers of taxed carts to be charged in the same manner as the duties contained in the schedule of the said act marked D. No. V. are directed to be charged.

Save and except any maker or makers of carriages with four wheels, or of carriages with less than four wheels, duly assessed as such to the duties contained in the said act of the forty-eighth year aforesaid.

III. Of the Tax on Property.

By the 43 G. 3. c. 122. there shall be raised, collected and paid, the several duties and contributions contained in the annexed schedules (A.) (B.) (C.) (D.) and (E.)

By the 45 G. 3. c. 15. Additional duties were granted of 1-4th of the net amount charged by any assessment under the 43 G. 3. c. 122. And by the 46 G. 3. c. 65. the before imposed

imposed duties were further increased to 2s. for every 20s. of the annual amount of profits of all property, professions trades, and offices mentioned in the schedules (A.) (C.) (D.) and (E.) of the 43 G. 3. c. 122; and to 1s. and 6d. for every 20s. of the annual value of all property mentioned in schedule (B) of the same act, as recited in this act (46 G. 3. c. 65.) which recitals are as follow :

Schedule A.

For all lands tenements hereditaments or heritages there shall be charged throughout *Great Britain* in respect of the property thereof, for every twenty shillings of the annual value thereof, the sum of one shilling.

Schedule B.

For all dwelling houses lands tenements or hereditaments in *England, Wales, and Berwick-upon-Tweed*, there shall be charged in respect of the occupation thereof, for every twenty shillings of the annual value thereof, the sum of nine-pence,

For all dwelling houses lands tenements or heritages in *Scotland*, there shall be charged in respect of the occupation thereof, for every twenty shillings of the annual value thereof, the sum of sixpence.

Schedule C.

Upon all profits arising from annuities, dividends and shares of annuities, payable to any person or persons, bodies politic or corporate, companies or societies, whether corporate or not corporate, out of any public revenue, there shall be charged for every twenty shillings of the annual amount thereof, the sum of one shilling without deduction,

Schedule D.

Upon the annual profits or gains arising or accruing to any person or persons residing in *Great Britain* from any kind of property whatever whether situate in *Great Britain* or elsewhere, or from any profession trade or vocation, whether the same shall be respectively carried on in *Great Britain* or elsewhere, there shall be charged for every twenty shillings of the amount of such profits or gains the yearly sum of one shilling,

And upon the annual profits or gains arising or accruing to any person or persons whatever, whether subjects of his majesty or not, although not resident within *Great Britain*, from any property whatever in *Great Britain*, or any profession, trade, employment or vocation exercised within
Great

Great Britain, there shall be charged for every twenty shillings of the amount of such profits or gains the yearly sum of one shilling.

Schedule E.

Upon every public office or employment of profit, and upon every annuity, pension or stipend, payable by his majesty, or out of the publick revenue of *Great Britain*, except annuities before charged to the duties in schedule (C.) for every twenty shillings of the annual value thereof respectively there shall be charged the sum of one shilling.

By *f. 2, 4.* These duties were to commence with the year commencing *April 5, 1806*, under the regulations of this and the 43 *G. 3. c. 99.* The 45 *G. 3. c. 49,* was repealed, excepting as to arrears and penalties under the 43 *G. 3. c. 122,* which are still to be levied under that act.

The remaining provisions of the 46 *G. 3. c. 65,* it is attempted to class under the following heads:

- (i.)—Appointment and qualifications of commissioners in general.
- (ii.)—The same of additional commissioners; and herein of the commissioners of public bodies.
- (iii.)—Of special commissioners.
- (iv.)—Of the powers of commissioners.
- (v.)—Of the duties of assessors.
- (vi.)—Of delivering lists by persons to be charged.
- (vii.)—Of the liability of particular persons to be charged.
- (viii.)—Schedule A. Duty on landed property; and herein,
 - 1. General rule for estimating lands, tenements, hereditaments or heritages.
 - 2. For estimating tythes, belonging to lay impropriators ecclesiastical dues to the same, tythes compounded for, manors and other royalties, fines, and other profits arising from lands.
 - 3. For estimating tythes belonging to any ecclesiastical person, church dues and tythes compounded for, belonging to ecclesiastical persons, quarries, mines, iron works, &c. canals, &c. markets and ways, &c.
 - 4. Rules respecting such duties.
 - 5. Of deductions from schedule A.
 - 6. Of allowances in respect thereof.

(ix.)—Schedule

(ix.)—Schedule B. and herein,

1. (*Rule No. VII.*) *Rules for assessing and charging the properties under Sched. B.*
2. (*Rule No. VIII.*) *Rules for estimating nurseries, or gardens, and hop lands.*
3. (*Rule No. IX.*) *Rules for charging the said duties under Schedules A. and B.*
4. (*Rule No. X.*) *Rules for estimating the annual value of properties before described in Schedules A. and B.*
5. (*Rule No. XI.*) *Of the Rules to be observed by assessors in making their estimate, where the occupier is not resident within their district.*
6. *Of the Rules by which assessors shall estimate the value of tenements.*
7. *Of levying the duties on tythes, &c.*
8. *Of assessors making estimates.*
9. *Of commissioners estimates.*
10. *Of notice of assessment, and appeals thereon,*
11. *Of vexatious surcharges.*
12. *Of the duration of assessments.*

(x.)—Schedule C. and herein,

By whom, and what stock it shall be paid ; and

1. *Of the Stock of Friendly Societies.*
2. ————— *charitable Institutions.*
3. ————— *in the name of the commissioners of the national debt.*
4. ————— *the Treasury.*
5. ————— *in the names of foreigners.*
6. ————— *his Majesty, and of foreign ministers resident in England.—And how exemptions shall be claimed.*

(xi.)—Schedule D. Of property and profits not contained in Schedules A. B. C. and of employments of profit not contained in Schedule E. and herein,

1st. Of trade and manufactures.

Rule 1. On what amount to be computed.

2. *To whom the duty extends.*
3. *Deductions when not allowed for repairs, losses, &c.*
4. *Whether for annual interest.*

2d.—As to professions and employments.

1. Which shall be charged.
2. How the duty shall be computed.
3. In what cases the 3d and 4th rules of the FIRST CASE. shall extend to the second.

Rules applicable to both cases.

- a. How the balance of profits shall be estimated.
- b. How the duty shall be computed, where one person is concerned.
- c. How, where two or more.
- d. How, where partners are changed.
- e. Where parties are to be charged.

3d.—Of profits of an uncertain annual value not charged in Sched. (A.)

1. How computed on uncertain profits.
2. How upon interest not annual.
3. How where the person charged is a dealer in cattle or seller of milk.

4th.—Securities in Ireland.

5th.—Possessions in Ireland.

6th.—Of profits not previously described.

Matters relative to Sched. (D.)

- (xi.) f. Where statements are to be delivered.
- g. How additional commissioners are to assess.
- h. How surveyors to appeal against it.
- i. How appeal to be made.
- k. When a party may be called to verify on his oath.
- l. When commissioners are to assess.
- m. Penalties.
- n. Abatement on account of diminution of income &c.
- o. How commissioners shall be assessed.
- p. How assessments shall be entered.
- q. Where payments are not duly made, and how to be made.
- r. Duties paid in advance.

(xii.)—Schedule (E.) On account of salaries, fees, wages, perquisites, and profits, accruing by reason of offices, employments or pensions.

1. *On what to be charged.*
2. *By whom to be assessed.*
3. *On what public offices to be charged.*
4. *How the profits shall be estimated.*
5. *When the duty may be stopped out of salaries, &c.*
6. *Of other offices.*
7. *Of deducting duties.*
8. *Where there is a deputy.*
9. *Of official deductions to be allowed.*
10. *Pensions, &c. payable out of any particular revenue.*

Matters relative to Schedule (E.)

- (xii.) a. *Where the office shall be considered to have exercised.*
 b. *Where it shall be assessed.*
 c. *Of the clerks, &c.*
 d. *When a statement of profits from offices must be given.*
 e. *How value to be ascertained.*
 f. *Of arrears of non-payment.*
 g. *When the duties shall be stopped out of the salaries, &c.*

(xiii.)—Of surcharges.

Appeal against the same and proceedings thereon.

(xiv.)—Of exemptions.

- a. *Schedule relating to exemptions.*
- b. *Of the declaration to be made.*
- c. *Particularly in respect of annuities.*
- d. *Rules for estimating the same.*
- e. *Exemptions to be allowed to artisans.*
- f. *Insurance on lives.*
- g. *Where a claim shall be made.*

Of the rules for granting exemptions and allowances.

1. *On income arising in the parish of residence.*
2. *In different parishes in the same district, or in different districts.*
3. *On income arising from any annuity charged on persons other than the claimant, (there being no assessment on the claimant;) or from public annuities.*
4. *Of the course to be pursued by claimants under rule 3d., not being public annuitants, also where they are public annuitants.*

5. *Of*

5. *Of the same, respecting those who pay the annuity to the claimant.*
6. *Of the effect of the certificate of exemption or allowance, granted to the claimants, upon the certificate being given to the collectors.*
7. *Of the collectors duty thereupon.*
8. *Of annuitants entitling themselves to claim.*

Other matters relating to abatements.

- h. *Of claims by coparceners &c.*
- i. *Of claims made by agents &c. on account of others.*

(xv.)—Of double assessments.

(xvi.)—Of the mode of proceeding by the Commissioners in collecting the duties; and herein of the responsibility of parishes; arrears of parishes; and the times of payment.

(xvii.)—Of matters relating to changing of residence.

(xviii.)—Of particular relations, as landlord and tenant; parents; guardians; executors.

(xix.)—General regulations; as to voluntary contributions; money erroneously paid; and the payments into the exchequer, &c.; allowances to clerks, &c.

(xx.)—Settlement not to be gained by payment of duties.

(xxi.)—How penalties shall be recovered; and of criminal proceedings under the act.

(xxii.)—General regulations and forms.

(i.)—*Appointment and qualification of commissioners in general.*

By 46 G. 3. c. 65. s. 5. Persons appointed commissioners for the general purposes of the above mentioned acts, and acting as such for the year immediately preceding the commencement of this act, may, if willing, continue to act without a new appointment under this act.

Commissioners for this act to be chosen from the commissioners of land-tax.

The several persons appointed to be commissioners for the land-tax act (38 G. 3. c. 5.) being respectively qualified for that purpose, shall meet at such place within each county, riding, division, city, borough, cinque port, town, and place,

place, for which they are so respectively appointed, as shall have been the usual place of holding the general meetings of commissioners under the said land-tax act; or if such general meeting shall not have been usually held therein, then at the place where the quarter sessions shall be usually held therein in the week after the close of *Easter*, or next after *Easter* in every year; which meeting shall be convened respectively by the sheriffs of counties, and chief magistrates of all boroughs, &c. whenever certified to them to be necessary by the commissioners for the affairs of taxes for the respective districts, and shall be held between the 1st of *March* and the 5th of *April* in every year, after such notice shall have been given. 46 G. 3. c. 65. s. 6.

By s. 163. No qualification shall be required of any of the officers herein (*post. Sched. E.*) described to be commissioners for the duties on officers, or on employments of profit, or on pensions stipends annuities interests or dividends, contained in the several schedules, who shall act as such commissioners by virtue of their several offices, other than such offices respectively.

And at each such general meeting, the said commissioners of land tax, or the major part of them then present, shall choose and set down in writing the names of such of the commissioners so appointed, who shall respectively be qualified as herein-after required; and who shall be fit to act in the several hundreds, rapes, lathes, wapentakes, or wards, within the said counties, &c. or in the several parishes or wards of the said cities, &c. within the same; the same limits to be for the said districts which are now used for the districts under the said land-tax act; and the names of the persons so chosen shall be set down in the order in which the major part of the commissioners then present shall judge fit they should respectively be appointed commissioners in their respective districts; and any seven, or less number than seven (not being in any case less than three) of such persons so set down, and in such order, shall be commissioners for the general purposes of this act; and they are hereby required to take upon themselves the execution of this act, as commissioners for general purposes. *Ibid.*

But by the 44 G. 3. c. 83. it is enacted, that, in every district where the commissioners acting under the 43 G. 3. c. 122. shall not have completed their year's assessment and the collection thereof, before the times thereby limited for appointing new commissioners for the subsequent year, and the said commissioners shall be willing to continue in the execution of that act, no new appointment of commissioners shall be required; and if in any such district, a new appointment of commissioners shall have taken or shall take place, either

Manner of choosing the commissioners of districts.

Commissioners to continue to act, until their year's assessment are completed.

Any new appointment void, in case the first

at

appointed commissioners are willing to act.

Appointment of commissioners for the first year's assessment, after the time limited, declared valid.

Manner of choosing persons to supply vacancies.

May choose other persons possessing the qualifications.

May choose persons in adjoining districts.

Where 7 are chosen, no others to interfere.

at a general meeting of the commissioners of land-tax, or at a district meeting of such commissioners, whereby any commissioners, appointed for the prior year's assessment, and willing to act as such, shall have been, or shall be removed, before the year's assessment shall have been completed as aforesaid, the appointment of any other, in the room of those removed and willing to act, shall be void; and the commissioners so first appointed may continue to act as such, by virtue of such appointment, notwithstanding such second appointment of commissioners; and where any appointment of commissioners, for the first year's assessment, under the 43 G. 3. c. 122. shall have taken place after the times thereby limited, and the commissioners so appointed have begun to execute the same, every such appointment is hereby declared valid, and the commissioners acting under such appointment, for the first year's assessment, are hereby indemnified for all acts, which commissioners, duly appointed, may lawfully do under the said act. *f. 1.*

And by 46 G. 3. c. 65. *f. 6.* Any 7 or any less number (not less than 3) of the persons so set down, next in order to the list of names before mentioned, shall be commissioners to supply vacancies as the same may arise, in the manner hereinafter mentioned: but if the commissioners, appointed as herein is first mentioned, shall not find amongst themselves, and set down the names of 7 persons to act, and 7 others to supply vacancies for each district, within such county, &c. they may appoint any persons residing within such district, who shall respectively be qualified as herein-after required, and who in their judgment shall be proper to be commissioners, until the number of 7 in each list be completed, although such persons shall not have been appointed to act as commissioners under the said land-tax act: and if at such meeting the commissioners shall not find and set down 14 persons of the descriptions before mentioned to act as commissioners, and to supply vacancies in each district, they may select the requisite number from the persons acting in or for any neighbouring district of the same county, &c. in order that there shall be no failure in the execution of this act. And the names of such persons, so chosen, shall be transmitted to the tax office in the order in which they shall have been set down in such lists: but where 7 persons, qualified as herein-after required, shall be chosen to act as commissioners for any district, no other shall interfere as a commissioner in the execution of this act, so long as they shall continue to act, except in the districts herein-after mentioned.

And if any commissioner appointed to execute the 43 G. 3. c. 122. and continuing to act under it, or appointed to act under this, and acting as such at and immediately before the time

time of holding such general meeting, shall signify to such meeting his consent to act as such commissioner, then the said commissioners of land-tax present at such meeting, shall only appoint as many as shall be necessary above the number of those so consenting. *Ib.*

And by *f. 8.* If in any county, &c. any default shall happen in holding such general meeting for any year, then the commissioners so appointed and acting, shall continue to act as such commissioners without any new appointment, and may also supply vacancies then existing in such manner as they are hereby empowered, to fill up vacancies.

And in every district where there shall not be sufficient commissioners, according to the directions of the 43 G. 3. c. 122. to carry the same into execution, the power of holding a general meeting of the commissioners of land-tax shall be extended, for the (then) present year, until the 10th of *October* 1804, until which time, the powers of the said act, in relation to such nomination, may be carried into execution; and every general meeting already held pursuant to the said act for such purpose, although after the time thereby limited, shall be deemed valid; and the appointment of commissioners at such meeting is hereby confirmed, except where by such nomination any commissioners acting for the first year's assessment shall be willing to continue to act, in which case the nomination of any other person or persons to act in his or their place shall be null and void; and all appointments made or to be made at any district meeting of such commissioners, where a general meeting shall have been held, or shall be held before the day limited by this act, are hereby declared to be null and void. 44 G. 3. c. 83. *f. 2.*

By 46 G. 3. c. 65. *f. 9.* When any commissioner for general purposes shall die, or decline to act, or having begun to act, shall decline to act any further therein, then the person first in order on the list to supply vacancies shall be appointed in the place of such commissioner, provided the person so to be appointed shall have been chosen to supply such vacancy in the same manner as the person refusing or declining to act, or dying; and the several commissioners of land-tax shall at such general meetings and the several persons herein-after authorized to appoint commissioners for certain cities and towns herein-after mentioned, on notice thereof from the clerk to the acting commissioners shall, as often as occasion requires, select and add new names to the persons before chosen to supply vacancies, who shall respectively be commissioners for the general purposes, when any such vacancy shall happen.

In default of holding a general meeting, the commissioners may act without further appointment.

Power of holding general meetings of the commissioners of land-tax, in districts where there shall not be a sufficient number of commissioners to execute the rectified act, extended till Oct 10, 1804, &c.

How vacancies are to be supplied.

Vacancies of commissioners, how to be supplied.

And if the list be defective so that the due number cannot be supplied, the same shall be filled up from time to time by

the commissioners for general purposes, in the district where the same shall have happened. *Id.*

Within certain places, other commissioners may be chosen in addition, to act with the commissioners before chosen.

By whom to be chosen in London.

Norwich.

Other cities and towns.

Where sufficient commissioners are not chosen for cities and towns, the commissioners for the county may act.

But by *s. 10.* within and for the respective cities and towns of *London, Bristol, Exeter, Hull, Newcastle upon-Tyne, Norwich, Birmingham, Liverpool, Leeds, Manchester, King's Lynn, and Great Yarmouth,* the persons herein-after mentioned may choose commissioners and persons to supply vacancies. In and for the city of *London,* 2 commissioners, and 2 to supply their vacancies, shall be named by the mayor and aldermen of *London* out of 8 persons, 4 of whom shall be aldermen, to be returned to them by the common council; 2 other commissioners, and 2 to supply their vacancies, by the governors and directors of the bank of *England*; 1 other commissioner, and 1 other to supply his vacancy, by each of the companies after mentioned, (*videlicet*) the directors of the *East India* company, the governor and directors of the *South Sea* company, the governor and directors of the *Royal Exchange* insurance company, and the governor and directors of the *London* insurance company, the directors for the *West India* dock company, and the directors for the *London* dock company. And the magistrates and justices of the peace for the city of *Norwich* may choose 8 persons to be commissioners, and 8 to supply their vacancies, not more than 4 of the said 8 commissioners, nor more than 4 of the said 8 persons to supply their vacancies, to be chosen from out of the said magistrates and justices, and the remaining 4 commissioners and 4 persons to supply their vacancies, to be chosen from the inhabitants of the said city; and for each of the other cities and towns before mentioned, the magistrates and justices acting in and for the same, or the county, riding, division, or shire, where the said city or town is situate, to choose 8 persons to be commissioners, and 8 to supply their vacancies as herein-mentioned; and the persons so chosen by the land-tax commissioners as aforesaid, together with the other persons respectively chosen as herein is particularly directed, shall be commissioners for this act, and to supply their vacancies as the same may arise, within and for the several districts in which such cities and towns respectively shall be situate, or which shall be formed by such cities and towns respectively, and for such other places which have usually been assessed in the same district with such cities and towns towards the land-tax; and the names of all persons so chosen as last aforesaid, shall be returned to the commissioners of taxes.

By *s. 11.* In case there shall not be a sufficient number of commissioners chosen for general purposes, or to supply vacancies, capable of acting according to the qualifications hereby required, for any city or place, then any person qualified

lified to act for the county at large, or riding, or shire, in which, or adjoining which, the same shall be situate, may be chosen to act as such commissioner, for such city or place.

By *f. 12.* Any person residing in any county, &c. and qualified as herein-after mentioned, who shall be willing to act as a commissioner under this act, in any district where at one shall be wanting, may be chosen in manner aforesaid to be such commissioner, although such person shall not have been appointed to execute the said land-tax act.

Power to choose persons duly qualified, although not named in the land-tax act.

By *f. 13.* If in any district there shall be a neglect in appointing commissioners for general purposes, as hereby directed, or the commissioners so appointed shall neglect or refuse to act, or shall decline to act further therein, the commissioners of the land-tax, being respectively qualified as hereby directed, (not exceeding 7), shall on notice of such neglect and want of appointment by any inspector or surveyor of the said duties, (duly authorized to give such notice by writing under the hands of 3 or more commissioners of taxes) take upon themselves the execution of this act, and execute all things which the commissioners of this act are hereby required and empowered to do. And if in any district there shall be a want of such last-mentioned commissioners, the commissioners of any adjoining district in the same county, &c. being respectively qualified as hereby directed, shall, on like notice, execute this act as such commissioners by themselves, or in concurrence with the commissioners of the district where this act shall require to be executed: and if the persons to whom such notice shall have been given shall not execute this act, then any two or more of the commissioners for special purposes may do all things in such district which should be done by commissioners for general purposes: provided that where commissioners willing to act in each district shall not be returned to the tax office as aforesaid, the commissioners of taxes may cause such notices as aforesaid to be given to two or more of the persons on whom the right of executing this act shall devolve in pursuance of this act as before mentioned.

On neglect of choosing such commissioners, the commissioners of land-tax to execute this act.

And the sheriff of every county, or his deputy, and the chief magistrate of every city, borough, cinque-port, town, and place, where such general meeting is required to be holden, shall, on notification thereof from the commissioners of taxes, convene the same accordingly at the usual or most proper place for holding such meetings; and where the powers of the 43 G. 3. c. 122. for the appointment of commissioners shall not have been duly executed, or where the commissioners appointed shall not have taken upon themselves the execution thereof, the sheriff, or his deputy, or the chief magistrate aforesaid, shall, by the direction of any 3 or

Powers for convening general meetings, and appointing commissioners.

more of the lords commissioners of the treasury, and by their nomination, cause to be appointed sufficient persons, qualified as directed by the said act, to be commissioners, or assistant commissioners, for the purposes thereof, as the case may require; which commissioners, so nominated and appointed, shall have full power to execute the said act, as well with respect to the assessments to be made in the year of such appointment as for any prior year in which any default shall have been made in carrying the said act into execution, and for such period of time as the lords commissioners shall limit and appoint. 44 G. 3. c. 83. s. 3.

Qualifications of
commissioners in
counties except
Monmouth.

By 46 G. 3. c. 65. s. 15. No person required to be qualified in respect of estate, shall act as a commissioner for general purposes under this act, for any county at large (the county of *Monmouth* and the dominion of *Wales* excepted), or for any of the ridings of the county of *York*, or the county or divisions of *Lincoln*, or for the cities of *London* or *Westminster*, unless such persons be seised or possessed of lands, tenements, or hereditaments, of the value of 200*l. per annum*, or more, of his own estate, being freehold, copyhold, or leasehold, for a term whereof not less than 7 years are unexpired, over and above all ground rents, incumbrances, and reservations payable out of the same respectively, or unless such person shall be possessed of personal estate of the value of 500*l.*; or of personal estate, or an interest therein, of the annual value of 200*l.*; or of lands, tenements, or hereditaments, and personal estate, or an interest therein, being together of the annual value of 200*l.*; estimating in every such case 100*l.* personal estate as equivalent to 4*l. per annum*, and *vice versa*; or unless such person be the eldest son of some person who shall be seised or possessed of a like estate of thrice the value, or more, as above required as the qualification of a commissioner in right of his own estate, for such county at large, riding, or division.

Qualifications of
commissioners to
act in the county
of *Monmouth*,
Wales, liberty of
Ely, cities, &c.

And by s. 16. No person shall be capable of acting as such commissioner for the county of *Monmouth*, or for any county in *Wales*, or for any other city, town, or place, being a county of itself, or for the liberty and franchise of *Ely*, or for any cinque-port, unless he be seised or possessed of an estate of the like nature, and of three-fifths of the value herein required for the estate of a commissioner acting for any county at large as aforesaid; nor for any other city, borough, town, or place, not being a county of itself, nor for any of the inns of court and inns of chancery, or liberty of the rolls, unless such person be possessed of an estate of the like nature; and of one-half of the value herein required for the estate of a commissioner acting for any county at large in *England*; or unless such person be the eldest son of some person

person who shall be seised or possessed of some estate of thrice the value, or more, above required as the qualification of a commissioner in right of his own estate, for the same county, city, borough, inn of court or chancery, town, or place.

By *f. 19.* Nothing herein contained, shall be construed to require any qualification of a commissioner, for the purposes of this act, in the district of the palaces of *Whitehall*, and *Saint James Westminster*, for any officer who shall have heretofore acted, or may hereafter act as a commissioner, for executing the land-tax act there, other than the possession of their respective offices. *f. 16.*

Proviso for certain officers, particularly authorized or named.

And by *f. 20.* No estate, consisting of lands or tenements, as the qualification of a commissioner, shall be required to be situate in the county, riding, division, or shire, for which such person shall be a commissioner; but the proof of such qualification shall lie on the person acting in the execution hereof, in such manner as is directed, with respect to the commissioners of the land-tax.

The qualification not required to be in the county.

(ii.)—*Appointment and qualifications of additional commissioners.*

By 46 G. 3. c. 65. *f. 21.* Whenever it shall be deemed expedient by the commissioners of this act, that certain of the powers herein contained, should be executed by additional commissioners, such additional commissioners shall be chosen by the commissioners for this act, acting in the same district; for which purpose the said commissioners being duly qualified according to this act shall, with the consent of the major part of them, assembled at any meeting held for that purpose, set down in writing, lists of the names of such persons residing within their respective districts, as shall, in their opinion, be fit to act as additional commissioners; which lists shall contain the names of so many of those persons as the said commissioners shall, in their discretion, after taking into consideration the size of each district, and the number of persons to be assessed therein, think requisite for the due execution hereof, which lists, being respectively signed by any 2 or more of such commissioners, shall be a sufficient authority for such additional commissioners, being respectively qualified as herein-after mentioned; and they are hereby authorized to take upon themselves the execution of this act.

Mode of choosing additional commissioners.

But by *f. 22.* No person shall be capable of acting as such additional commissioner, who shall not be seised or possessed of an estate of the like nature, and of half the value, herein required for the estate of a commissioner for general purposes in the same district: and where no additional com-

Qualification of additional commissioners.

In default of naming additional commissioners, the commissioners for the act to execute it. For the supply of commissioners in cities, &c.

missioners shall be named and appointed in any district, then the commissioners appointed for general purposes, shall execute the same in such district, in all matters hereby authorized to be done by additional commissioners.

By *f. 23.* If in any city, liberty, franchise, cinque-port, town, or place, for which separate commissioners have been appointed to execute the said land-tax act, there shall not be found a sufficient number of persons qualified, as hereby directed to act as commissioners for general purposes, or as additional commissioners, then any person residing therein, who shall be liable to be assessed, under this act, for annual profits, (however arising) to the amount of 200*l.* or upwards, may be appointed to act as such.

Notice to be given to additional commissioners to take upon themselves the execution of this act.

By *f. 26.* Whenever the commissioners for general purposes shall have named such additional commissioners, they shall cause notice thereof, in writing, signed by two or more of them, to be delivered to them by the assessors of the respective parishes or places where they reside, with the day and place of the first meeting of the said additional commissioners, to be appointed by such commissioners for general purposes, and which shall not be later than 10 days after the date of such notice; and the respective assessors shall, without delay, cause the persons so named to be summoned by notice in writing, either given personally, or left at their respective places of abode, to assemble at the time and place mentioned therein, for the purpose of qualifying themselves to act in the execution of the powers hereby vested in them; and any two or more of the said commissioners for general purposes, shall administer to such additional commissioners the oath or affirmation (*F. No. 1.*) hereby required to be taken by them, and shall appoint a day for the said additional commissioners to bring in their certificates of assessment in the manner herein directed, and the clerk to the commissioners in each district, or his assistant, shall also be appointed clerk to the additional commissioners and shall attend their meetings.

The oath or affirmation.

Additional commissioners to be divided into committee, if necessary.

By *f. 27.* The commissioners for general purposes, whenever they shall think the same to be requisite, may divide such additional commissioners into district committees, and allot to each committee distinct parishes, wards, or places, in which such committee shall separately act in the execution hereof; but the meetings of such committees shall be appointed at such times as that the clerk to such commissioners may attend every meeting.

The number of additional commissioners in each district not to exceed 7, nor to be less than 3.

And by *f. 28.* It shall not be lawful for more than seven persons to act together as additional commissioners for the same district, not being formed into such several divisions, nor any greater number to act together in the same committee; and where more than seven shall attend as such additional commissi-

commissioners at any meeting, either for the whole or any division of any district, the seven persons first in their order on the list signed by commissioners for general purposes then present shall act, and the rest shall withdraw from such meeting: but not less than two additional commissioners shall be competent to form any meeting, either for any district or division thereof; and any two of them, or the major part of them then present, shall be competent to do any act authorized hereby.

By s. 29. If it shall appear to the commissioners for general purposes whether they shall have been chosen as aforesaid, or shall act by virtue of their appointment of commissioners for the land-tax, to be expedient that a greater number than seven commissioners for general purposes, possessing the qualification required for such commissioners should be appointed for any district, instead of appointing commissioners possessing only the qualification required for additional commissioners as before mentioned, they may appoint such greater number, not in any case exceeding seven, observing with regard to such appointments the same rules as in the first appointment of commissioners for general purposes, but nevertheless without adding thereto any persons to supply their vacancies; and in every case of appointing such increased number, the said commissioners shall, at their first meeting after such appointment, choose indifferently, by lot, such number of their own body, not less than two or more than seven, to execute the office hereby vested in additional commissioners; and the persons so chosen shall be additional commissioners for this act, and the powers hereby vested in additional commissioners, and they are hereby required to execute this act accordingly, and the remaining commissioners, not so chosen by lot, shall execute the powers vested in the commissioners for general purposes as aforesaid.

But where no such additional commissioners shall have been appointed specially to execute the powers vested in additional commissioners, the commissioners acting in the execution hereof, whether chosen as aforesaid or not, shall divide themselves in such manner, that two at the least shall be appointed to execute the powers vested in additional commissioners by this act; and if in such case there shall not be two remaining at least, qualified to act as commissioners for general purposes in such district, then the persons duly qualified to execute the same in any adjoining district of the same county, riding or division, or such number of them as shall be requisite, shall execute this act, and the powers hereby vested in commissioners for general purposes in and for such first-mentioned district. *Ib.*

Appointing a greater number of general commissioners instead of additional commissioners.

Two of them to execute the office of additional commissioners.

Where none such are appointed commissioners, then to divide themselves, so that a may act as additional commissioners.

In such case commissioners for this act may be taken out of the adjoining district.

(iii.)—Of special commissioners.

Commissioners,
for special pur-
poses.

Treasury to ap-
point assistant
commissioners.

Functions of
special commis-
sioners.

May grant ex-
emptions for
former years
under schedule
(C.)

May charge the
duty on schedule
(C.) for former
years.

By 46 G. 3. c. 65. s. 31. The commissioners for the affairs of taxes for the time being, together with the persons appointed assistant commissioners under the authority of the said act passed in the 45 G. 3. and such other persons as shall be appointed assistant commissioners for special purposes as herein-after mentioned, shall be commissioners for the special purposes of this act; and it shall be lawful for his majesty, his heirs or successors, under the royal sign manual, or the lord high treasurer, or the commissioners of his majesty's treasury or any three or more of them, for the time being, by warrant under hands and seals, from time to time to appoint such other persons to be assistant commissioners for such special purposes, as he or they respectively shall think expedient; which said commissioners for the affairs of taxes and assistant commissioners, or any two or more of them, without other qualification being required than the possession of their respective offices, shall have full authority to execute the several powers given by this act to commissioners for special purposes, either in relation to the allowances specified in number VI. Schedule (A.) of this act, or in relation to the special exemptions granted from the duties mentioned in schedule (C.) of this act, or to the charging and assessing the profits arising from annuities dividends and shares of annuities paid in *Great Britain* out of the publick revenues of *Ireland*, or any foreign state as and with the exception herein mentioned; and also in relation to the examining, auditing checking and clearing the books and accounts of dividends delivered to the inspector, under the authority of this act; and also shall have full authority to do any thing hereby required to be done by commissioners for special purposes appointed as aforesaid or to be appointed under this act; and all matters contained in this act for ascertaining the amount of any duty exemption or allowance mentioned in this act, shall be used by such commissioners, in ascertaining the amount of duty, or any exemption or allowance placed under the cognizance or jurisdiction of the said commissioners so appointed or to be appointed; and in all cases where any exemptions from the duties in schedule (C.) granted by the said recited acts, shall not have been claimed before the passing of this act, it shall be lawful for the said special commissioners to enquire into and allow such exemptions in like manner as they may enquire into and allow any exemptions or claims to be made in respect of the said duties which shall accrue after the passing of this act; and also in all cases where the commissioners for general purposes in their respective districts shall not have proceeded to assess the duties contained in schedule (C.) for

(C.) for any year prior to the passing of this act, notwithstanding that returns of the amount thereof may have been made to them, the said commissioners for special purposes may examine such returns, and assess the parties making them, and also all persons who shall have neglected to make such returns, by virtue of this act, as the commissioners for general purposes might have used and exercised under the said recited acts or this act: provided always, that the said commissioners so appointed or to be appointed, shall not alter any assessments made by commissioners in their respective districts, or any exemption abatement or allowance which they might lawfully grant, or any certificate thereof; nor shall summon any person to be examined before them; but all inquiries by or before them, shall be answered by affidavit, to be taken before one or more of the commissioners for general purposes in their respective districts, which may be taken on oath or affirmation on unstamped paper, and no such affidavit shall be liable to any stamp duty whatever; and such commissioners for special purposes aforesaid may exercise all the powers of this act as effectually as any other commissioners may so far as the same powers relate to the jurisdiction given to such commissioners; and the said assistant commissioners shall be allowed such salary, and such incidental expences, as the lords commissioners or the lord high treasurer shall direct; and if the clerks to the respective commissioners who shall have failed to assess the said duties contained in schedule (C.) notwithstanding such returns may have been made to them as aforesaid, or any of them, shall refuse or neglect upon demand made by any inspector hereinafter mentioned acting under the authority of the said commissioners for special purposes, to deliver the returns made to the said respective commissioners for general purposes in their custody or power, or the custody or power of any of them, or of the respective commissioners under whom such clerks act, or copies of such returns, or of such parts thereof as relate to the said duties, or abstracts from the same, containing the names and places of abode of the respective parties making such returns, and the several amounts of dividends returned under their proper descriptions, within a reasonable time after such demand made, every such clerk so offending shall forfeit the sum of one hundred pounds.

By s. 33. The governor and directors of the Bank of England in respect of *Bank Stock*; the directors of the *E. I.* company in respect of *East India Stock*; and the governors and directors of the *S. S.* company in respect of *South Sea Stock*, or any three or more of them respectively, shall respectively be commissioners for the general purposes of this act, so far as respects the duty on such stock, and the profits attached

Not to alter
assessments
made.

Their proceedings to be by
affidavit without
examination.

Clerks to deliver
returns made to
them.

The Bank, East
India company,
&c. to be
charged by their
directors for
their corporate
stock.

attached to the same and divided amongst the several proprietors, and shall respectively have authority as such commissioners to exercise all the powers of this act in relation to the duty to be charged on such annuities and profits attached to the same; but nevertheless, separate and distinct from the amount of any other annual profits and gains in respect of the commerce or business of such companies respectively over and above such dividends and profits; and such commissioners may exercise all the powers of this act as effectually as any other commissioners may so far as they relate to the said last-mentioned duties; which assessments shall be made under and subject to the rules regulations and exemptions contained in schedule (C.) of this act.

Directing who shall be commissioners for charging duties on dividends.

By *f. 34.* The same persons respectively who shall act as such commissioners, for bank stock and *South Sea* stock, shall also be commissioners under this act, and under the like powers for assessing and charging the duties hereby made payable on all annuities dividends and shares of annuities payable out of the revenue of *Great Britain*, to any persons corporations or companies whatever and which shall have been entrusted to the said respective companies of the bank of *England* and *South Sea* for such payment, which assessment shall be made subject to the rules regulations and exemptions contained in schedule (C) of this act.

The same commissioners shall also assess the Bank for their profits, under schedule (D)

And by *f. 35.* The same persons who shall act as commissioners as aforesaid, in respect of *Bank Stock*, shall as such commissioners for general purposes also have like authority to assess the said company in respect of the profits of the said company chargeable by this act, under the rules of schedule (D.) making such deductions thereout, as by this act is allowed, and no other commissioners shall interfere in the assessments of profits belonging to the said company.

Appointing commissioners for charging Irish or foreign dividends payable at the Bank.

By *f. 36.* The same persons who shall so act as commissioners in respect of the annuities payable out of the revenue of *Great Britain* at the Bank of *England*, shall also be commissioners for assessing and charging the duties hereby granted and payable on all dividends and shares of annuities payable out of the revenue of *Ireland*, or of any foreign state, or of any colony or settlement belonging to the crown of the U. K. which shall have been entrusted to the said governor and company for payment to any persons corporations or companies in *G. B.* which assessments shall be made subject to the rules regulations and exemptions contained in schedule (C.) of this act.

Appointing commissioners for charging Irish or foreign dividends.

By *f. 37.* The persons appointed commissioners for special purposes under this act, shall be commissioners for assessing and charging the duties hereby made payable on all dividends and shares of annuities payable out of the revenue of *Ireland*,

or of any foreign state to any persons corporations companies or societies in *G. B.* entrusted for such payment to any persons corporations companies or societies whatever in *G. B.* other than the governor and company of the Bank of *England* as aforesaid, which assessments shall be made under the rules regulations and exemptions contained in schedule (C.) of this act.

By *f.* 38. In respect of the duties hereby granted on *Exchequer Annuities*, whether for lives or years, or depending on survivorship, the same commissioners who shall act in relation to pensions payable by his majesty at the said exchequer, as herein-after mentioned, shall also be commissioners for charging the several sums made payable on such exchequer annuities, and shall have authority to exercise all the powers of this act in like manner as is herein-before directed with regard to stock of the Bank *South Sea* and *East India* companies respectively.

Commissioners for exchequer annuities.

By *f.* 39. The lord high chancellor, judges, and every principal officer of each court or public department of office under his majesty throughout *G. B.* shall have authority to appoint commissioners from amongst the officers of each court or department respectively, and the persons so appointed or any three or more of them, not in any case exceeding seven, shall be commissioners for this act, in relation to the officer in each such court or department: provided always, that in relation to each department of office, not being one of his majesty's courts civil judicial or criminal or an ecclesiastical or commissariat court, the lords commissioners of his majesty's treasury shall, whenever they think it expedient, determine in what particular departments commissioners shall not be appointed, and in what other department the officers of that department wherein commissioners shall not be appointed shall be assessed; and also whenever there shall be any default in the officers of any department, or in any court aforesaid, in appointing commissioners, the said commissioners of the treasury shall, within the time herein limited, appoint fit persons, as directed by this act, to be commissioners in the several courts or departments for which they shall be appointed, from and amongst the officers in the several departments respectively, uniting for the purposes of this act, in cases requiring the same, two or more offices under the same commissioners, but nevertheless with distinct officers from each office so united for assessing and collecting the same, as directed by this act; and where any dispute shall arise touching the department in which any office is executed, the said lords commissioners shall determine the same: provided also, that where the commissioners of one department shall execute this act in relation to any other department, the assessors and collectors

Commissioners for the duties on offices in the public departments to be appointed by the principal officers belonging thereto.

collectors for such other department shall be appointed from the officers of such other department, with all the powers and privileges appertaining to such appointments: provided also, that where no appointment shall be made of commissioners before the expiration of the time limited by this act, the commissioners for executing this act in relation to the duties on lands and tenements shall, in their several districts, also execute this act in relation to the said duties on offices and employments of profit, exercised within the same districts respectively; and the appointment of such commissioners shall be notified to the commissioners for the affairs of taxes in *England*; and the want of such notification in due time shall be deemed full proof of the want of such appointment.

Appointment of commissioners for officers in houses of parliament, counties palatine, inferior courts, and under ecclesiastical bodies.

By *f. 40.* The speaker, and the principal clerk of either house of parliament, the principal or other officers in the several counties palatine, and the duchy of *Cornwall*, or in any ecclesiastical court, or in any inferior court of justice, whether of law or equity or criminal or justiciary, or under any ecclesiastical body or corporation whether aggregate or sole, throughout *Great Britain*, shall appoint commissioners from and amongst the persons executing offices in either house of parliament, or in their respective departments of office; and the persons so appointed, or any three or more of them, not in any case exceeding seven, shall be commissioners for this act, in relation to the places offices and employments of profit in each house of parliament, and in each such department respectively, which appointment shall be made, and the names of the commissioners shall be transmitted to the office for taxes in *England* or to the barons of the court of exchequer in *Scotland* respectively, within the time herein limited: provided always, that where no such appointment shall be made of such last-mentioned commissioners before the expiration of the time limited by this act, the commissioners for executing this act, in relation to the duties on lands and tenements shall, in their several districts, on due notice of such default in the manner herein directed, also execute this act in relation to the duties on such offices or employment of profit exercised within the same districts respectively.

Commissioners for raising the duties on offices not belonging to any public department.

By *f. 41.* The mayor, aldermen and common council, or the bailiffs and capital burgesses, or the principal officers or members, by whatever name they shall be called, of every corporate city borough town or place and of every cinque port throughout *Great Britain*, or any three or more of them not in any case exceeding seven, shall be commissioners for this act in relation to the public offices or employment of profit in such city &c. and in every guild fraternity company or society whether corporate or not corporate, within such city &c.; and for all offices or employments of profit
(not

(not being public offices or employments of profit under his majesty) in any county riding shire stewartry city liberty franchise town or place whether in the appointment of the lieutenant custos rotulorum or the justices or magistrates or commissioners for aids or taxes or sheriff of such county &c. or of any trustees or guardians of any trust or fund in such county &c., and for all parochial offices in such county &c. (except corporate offices in cities corporate towns boroughs or places, or offices in cinque ports as aforesaid) the commissioners for executing this act in relation to the duties on lands and tenements, shall, in their several districts, also execute this act in relation to the said duties on offices in such county &c., and such respective commissioners shall exercise any of the powers contained in this act in relation to any of the duties herein mentioned, for causing due returns to be made from the respective officers within their respective jurisdictions, and for compelling the assessors to make their certificates of assessment, and returning the same, and for the due collection of and accounting for the said duties, and may act therein, in all respects, as fully and effectually as any other commissioners may; provided the monies collected of the said duties under the respective commissioners acting for such offices in corporate cities &c. or in the cinque ports or in the several counties &c. shall be paid to the receiver general of the county &c. and not otherwise; and that the like duplicates shall be delivered of such last-mentioned duties as in other cases where the same are directed to be paid in like manner.

By §. 30. The commissioners for general purposes shall execute this act in all matters relating to the duties in schedules marked (A.) and (B.) of the said act, except such allowances in respect thereof as are directed to be made in number 6. of schedule (A.) by other commissioners for special purposes as herein-after mentioned, and also all matters and things relating to the duties in schedule (D.) of the said act, except such matters and things as are directed to be done by the additional commissioners or persons acting as such; and the said commissioners for general purposes shall also execute this act in all matters and things relating to the duties in schedule (E.) not executed by the commissioners authorized to be appointed for those duties: provided always, that nothing herein contained shall be construed to preclude any person chosen a commissioner for general purposes from acting as such, by reason of his acting or having acted as an additional commissioner, except only in the hearing and determining appeals against or relating to such particular assessments, wherein he shall have made an assessment as such additional commissioner.

Commissioners for general purposes to execute all matters with respect to the duties under all the schedules, except such as are directed by special or other commissioners.

Periods of appointment of commissioners are to be notified to the tax office, in default of such notification, the appointment of commissioners to devolve on the treasury or the commissioners of the district to execute the act.

By *f. 42.* The appointment of commissioners for executing this act, in relation to the duties on offices and employments of profits as aforesaid in *England*, shall respectively be notified to the commissioners for the affairs of taxes, within one calendar month after the passing of this act, with respect to the first assessment under the same, and within one calendar month after *April 5th* in any future year, and in default thereof the appointment of such commissioners shall devolve on the lords commissioners of the treasury, and on the commissioners of the district, in succession as aforesaid: provided always, that such appointment by the commissioners of the treasury shall take place within one calendar month after the notification of such default as aforesaid from the commissioners for the affairs of taxes; and in case of no appointment as last aforesaid, to be notified in like manner, the execution of this act shall devolve on the commissioners before mentioned appointed for the district in relation to the duties on lands tenements and hereditaments: provided also, that such appointments by the barons of the exchequer in *Scotland*, shall take place in every case of such default as aforesaid from the space of one calendar month after the respective periods before limited; and in case no such appointment shall be made by the said barons within one calendar month after such default, then the execution of this act shall devolve on the commissioners before mentioned appointed for the district in relation to the duties on lands tenements or hereditaments.

Duration of the appointments.

Commissioners appointed may continue to act.

And by *f. 43.* Such appointment shall be until other commissioners shall be appointed, and which appointments may be renewed annually on or before *April 5th* in each year during the continuance of this act: provided always, that the commissioners already appointed under the said recited act, or to be appointed under this act, may continue to act from year to year, so long as they are respectively willing to act, without any new appointment, unless it shall be deemed expedient, under this act, that any department for which the commissioners have been appointed should be assessed under the commissioners of any other department.

Commissioners for raising the duties on pensions.

By *f. 44.* For the better execution of this act, so far as the same relates to the duties hereby granted on pensions or stipends payable by his majesty, contained in schedule (E.) and for the ordering &c. of the several sums of money hereby made payable thereon, the principal officers in the receipt of his majesty's exchequer in *England*, or their respective deputies, shall be commissioners for this act, in relation to the said last-mentioned duties, or shall respectively appoint commissioners from amongst the officers of those departments for such purposes.

(iv.)—Powers

(iv.)—*Powers of commissioners, and herein of the duties of clerks.*

Note: The preceding section shews their power in the appointment of additional commissioners.

By 46 G. 3. c. 65. s. 24. In every subsequent year whenever a new appointment of commissioners shall take place, they shall execute this office as well with respect to the duties which shall not but which ought to have been assessed in former years, and with respect to arrears of duties assessed in any former year under this or the recited acts, as to the assessments to be made in such year for which they shall be appointed, and shall have like powers to assess levy and collect such duties and arrears as they have to assess levy and collect the duties assessed by them, for all which acts such appointment shall be a sufficient authority, subject to the regulations hereof.

Commissioners to act from the 5th of April in each year, both for arrears and for duties to be assessed in that year.

By s. 25. All things which may be done by any commissioners herein named, or so appointed, may be done by any two or more of them, or by the major part of them where more than two shall be present, and no fee shall be taken by them on any pretence whatever.

The commissioners to proceed to carry this act into execution from the passing.

By s. 46. The commissioners for general purposes may appoint assessors and collectors for such of the said duties, as shall be assessed by the said commissioners respectively, in like manner as assessors and collectors may be appointed under the said recited acts; and where they shall appoint the same persons to be assessors and collectors of the said duties as shall have been appointed to execute the said act, they shall cause notice to be given to them that they are also appointed assessors or collectors of the said duties so assessed.

Commissioners to appoint assessors and collectors.

By s. 48. The inspectors and surveyors appointed for the duties on houses and windows, and other assessed taxes, shall be inspectors and surveyors of the duties hereby granted; and any two or more of the respective commissioners for general purposes, or of the said respective additional commissioners acting in the execution hereof, or any two or more of them, and the assessors and collectors to be appointed as herein mentioned, and the said inspectors and surveyors shall, and they are hereby respectively empowered and required to do all things necessary for putting this act in execution, with relation to the duty hereby granted, in as ample a manner as any commissioners, assessors, collectors, surveyors, or inspectors are authorized to put the said recited acts in execution.

Commissioners, additional commissioners, and also inspectors and surveyors of houses and windows to act in the execution of this act.

By s. 45. Every person acting as a commissioner as aforesaid in the execution of this act, shall on request be entitled unto a certificate thereof under the hands of two or more of the

Commissioners entitled to certificates.

the commissioners for the affairs of taxes, which certificate shall continue in force so long as such person shall continue so to act, but shall be revoked on such person ceasing therefrom; and shall be revokable by the commissioners of his majesty's treasury, when it shall appear to them that such person hath neglected to perform his duty as such commissioner, by any instrument in writing under their hands or the hands of any three or more of them; and the person to whom such certificate hath been granted shall, during the continuance of this act, or until revocation thereof as aforesaid, be discharged of and from all and all manner of parish and ward offices within the parish or ward wherein he dwells, and from serving on juries in the county, which said certificate shall be enrolled by the clerk of the peace of the county or city in which the same shall be granted, for which enrolment he shall have for his fee the sum of one shilling and no more; and he shall cause every certificate revoked in manner aforesaid to be taken off the roll on notice thereof to be given to him by the commissioners for the affairs of taxes.

Commissioners
under the act to
charge duties for
former years.

By *f. 47.* The respective commissioners acting in the execution of this act, for the time being, or any two or more of them respectively, shall cause the said several and respective duties granted by the said recited acts, which at any time after *April 5th 1806*, shall not have been charged within the year for which the said duties ought to be charged, or which having been charged shall then be in arrears and unsatisfied, to be charged raised assessed re assessed levied ascertained collected and accounted for as fully as any commissioners appointed by the said recited acts might have done in that behalf, and as if the said duties had severally accrued or been charged after the passing of this act; and the said assessors and collectors and others acting in the execution of this act under the said respective commissioners, and the several receivers and other officers appointed or to be appointed under the authority of the said acts and acting under this act, shall respectively assess reassess levy receive and answer the said several duties and arrears of duties by the same ways and means, and in the same manner, and under the like penalties as are directed or appointed by this act with respect to the duties to accrue and to be charged after the passing of this act; and the monies so received by the said collectors or others for any such duties or arrears, shall be paid and accounted for in like manner.

By *f. 49.* Every commissioner or additional commissioner, or assessor, collector, inspector, or surveyor, executing this act, and every clerk or clerk's assistant to the said respective commissioners, before he shall begin to act therein, so far as the same relates to the duties contained in schedule (D.) shall

shall take the oaths or solemn affirmations, prescribed by this act, and contained in the schedule (F.) hereunto annexed, applicable to such officers respectively; which any commissioner, either general or additional, is hereby authorized to administer, (except that every such oath or affirmation, so to be administered to any commissioner for general purposes, or to an additional commissioner, shall be administered by a commissioner for general purposes and not otherwise, which oath or affirmation so taken, shall be subscribed by the party taking the same; and if any person shall act as a commissioner in relation to the duties in schedule (D.) except in administering the oaths or affirmations herein mentioned, or as a clerk or clerk's assistant, or as an assessor, collector, inspector, or surveyor, before he shall have taken the oaths or affirmations respectively required, he shall forfeit 100l. for every such offence; but the appointment of a clerk and assistant, when necessary, shall be vested in the commissioners for general purposes; which clerks and assistants shall act both for these and for the additional commissioners; but no more than one assistant shall be appointed for any district, without the approbation of the commissioners of taxes, on a statement made to them by the commissioners for general purposes, of the necessity thereof, in consideration of the extent or population of the district; and if any clerk or clerk's assistant having taken the oath, wilfully obstruct or delay the execution of this act, he shall forfeit 100l. and be dismissed and incapable of again acting in that capacity under the present act, or any other for granting duties under the management of the commissioners of the taxes.

By s. 73. The clerks to the said respective commissioners shall abstract the returns of statement delivered to such commissioners by the assessors, or at their office by the respective parties, into books to be provided for that purpose, and according to such forms as shall be transmitted to them from the office of taxes, such abstracts to contain the names of persons making such returns, arranged alphabetically according to the wards parishes and places in which they shall reside, and the several amounts of profits returned by them respectively, to be laid before and delivered to the said commissioners; and all such returns shall be numbered and filed in the office of the said commissioners, and carefully kept so long as the accounts of the said duties for such district, or any part thereof, shall remain unpaid to his majesty; to all which books, any inspector or surveyor who shall have taken the oath herein prescribed before the commissioners acting for the same districts respectively, shall have free access at all seasonable times, and shall take such copies thereof, or of such parts thereof, or extracts from

Abstract to be made by the clerks of returns of statements delivered to additional commissioners.

Inspectors may have access, and take copies from books containing such abstracts.

the same, as he shall deem necessary in order to the due execution of this act.

(v.)—Of assessors, and their duties.

Commissioners
to summon
assessors.

By *f. 59.* For the ordering the said duties, the respective commissioners for general purposes shall, at the first meeting to be held under this act, or at a meeting to be appointed for that purpose, or any two of them present at such meeting, direct their precepts to such persons as the said commissioners shall have appointed assessors for this act; or in case no such appointment shall have been made, then to the assessors for the land tax the duties on houses and windows, or any other duties charged by assessment in their respective districts, requiring them to appear before the said commissioners at such time and place as they shall appoint; and shall at such their appearance administer to them the oath required to be taken by this act, and issue to them their warrants of appointments as assessors in the execution of this act, signed by two or more of them, and such instructions duly filled up, as shall be necessary for carrying this act into execution.

To administer
oaths to them.

Assessors to fix
general notices
on church doors,
requiring persons
to deliver lists.

By *f. 60.* The assessors to be appointed to execute this act shall, within the time and in the manner directed by the precept of the commissioners for general purposes, cause general notices to be affixed on the door of the church or chapel, and market house or cross (if any) of the city, town, parish or place for which such assessors act; and if such city, &c. shall not have a church, &c. then on the nearest church or chapel to such city, &c. requiring all persons, by this act required to make out and deliver any list, declaration or statement, to make out and deliver to the respective assessors or commissioners, or to their clerk, at the respective offices to be described in such notice, and as therein directed all such lists &c. accordingly, within such time as shall be limited by such precept and which shall not in any case be later than twenty-one days from the date of such precept; and such general notices shall when the same shall be affixed as aforesaid, be deemed sufficient notice to all persons resident in such city, &c. and the affixing the same in manner aforesaid shall be deemed good service of such notice; and the said respective assessors shall cause the said notices to be from time to time replaced, if necessary, for the space of ten days before the time required for the delivery of such lists, &c. and every person wilfully tearing, defacing or obliterating any such notice so affixed, shall forfeit for every such offence not exceeding twenty pounds.

By

By *f. 61.* The said assessors shall, within the like time after receiving the precept of the commissioners under this act, give notice to every person chargeable to the said duties in respect of any property or profits situate or arising within the limits of the said places where such assessors shall act, or leave the same at his dwelling house or place of residence, or on the premises to be charged by such assessment, within such limits, requiring every such person to prepare and deliver in manner herein-after directed, all such lists, &c. as they are respectively required to do by this act, within such time as shall be limited by such precept; and if any person residing within any parish or place at the time such general notice as aforesaid shall be given, or to whom such notice shall be personally given, or at whose dwelling house or place of residence the same shall be left; or if any person occupying any property or engaged in any concern within such limits, on whom such notice shall be served in manner aforesaid, or for whom such notice shall be left on the premises to be charged as aforesaid, shall after notice thereof refuse or neglect to make out such lists, &c. as may be applicable to such person, and as the case may require, and deliver the same in manner herein-after directed, within the time limited in such notice, then such commissioners shall forthwith issue a summons under their hands, or the hands of any two or more of them, to all such persons so making default in order that the penalty therefore may be duly levied; and the said commissioners shall moreover cause to be assessed every person making such default in the manner herein directed.

Assessors to deliver notices at the houses of persons chargeable who are to deliver statements.

By *f. 71.* The said assessors shall make an alphabetical list, and deliver the same to the inspector or surveyor of the district, containing the names of all persons to or on whom such notices have been delivered or served in pursuance of this act, and the names of all persons having property or profits chargeable under this act within the limits of such assessors, distinguishing the persons who have duly made, and the persons who have omitted to make such returns, and also the persons who shall have been returned as lodgers or inmates within such limits, or as chargeable within such limits; but having a residence out of the limits of such assessors, and if such assessors shall have neglected to give notice to any person to whom the same ought to be delivered, the said inspector or surveyor may at any time afterwards cause such notices to be delivered to or served on such persons by such assessors respectively, and may also from time to time cause the like notices to be delivered to or served on any person coming to reside in any parish or place after the expiration of such notices.

Assessors to make out a list of the persons on whom notices shall have been served.

By *f. 72.* The assessors or one of them for every parish or place,

Assessors to verify the delivery

of notices and
of the affixing of
general notices.

place, shall personally appear before the said commissioners at their first meeting, or such other meetings as such assessors shall be appointed to attend, and shall then and there make oath or solemn affirmation before them, that the several notices required to be delivered to householders and occupiers, and also to lodgers and inmates by this act have been duly served in the manner required thereby to the best of their knowledge, and that general notices to the effect mentioned in this act have been duly affixed in the manner required by this act, on such proper places within the city, &c. for which such assessor shall act, as by this act is required, and that the list delivered by him to the inspector or surveyor contains the name of every person to or on whom such notice ought to be delivered or served according to the directions of this act, within the knowledge of such assessor: and every assessor who shall neglect to appear before such commissioners, and to make such oath or affirmation, or who shall not have returned to such inspector or surveyor the name or names of any person or persons whose name ought to be included in any such list as by this act is required, shall forfeit for every such offence any sum not exceeding twenty pounds.

(vi.)—*Of delivering lists by persons liable to be charged.*

Lists and statements, where to be delivered.

By s. 62. Every such list, &c. to be charged as aforesaid, shall be delivered to assessors of the same parish or place, or one of them; except statements containing the amount of profits to be charged under schedule (D.) as aforesaid, in such cases where the commissioners acting for such parish, &c. shall have caused to be inserted in the notice that an office is opened for the receipt of statements of profits and a proper person appointed to receive the same and the time and place of attendance; in which cases the delivery of such statements to be charged under schedule (D.) shall be made at such office to the person there appointed and not elsewhere; and if any dispute shall arise whether any statement of profits hath been delivered into such office, no other proof thereof shall be admitted than the production of a receipt under the hand of the proper person to whom the same ought to have been delivered, and such person is hereby required to give such receipt accordingly *gratis*, and on unstamped paper.

Persons to deliver in lists of the names of lodgers, inmates and servants.

By s. 63. Every person, when required so to do by any notice given in pursuance of this act, shall within the period to be mentioned in such notice, deliver to the assessor of the parish or place where such person shall reside a list in writing, containing, to the best of his belief, the proper name and names of every lodger or inmate resident in his dwelling house;

house, and of other persons chiefly employed in his service whether resident therein or not, and the place of residence of such of them as are not therein resident, and also of any such lodger or inmate who shall have any ordinary place of residence elsewhere at which he is entitled, under this act, to be assessed, who shall be desirous of being so assessed at such place of ordinary residence; which lists shall be signed by the respective parties delivering the same, and shall severally be made out in such form as shall be directed under this act.

By *f. 64.* No person required by this act to deliver a list of lodgers inmates or other persons aforesaid, shall be liable to the penalties herein-after mentioned, or either of them, for any omission of the name or residence of any person in his service or employ and not resident in his dwelling-house, if it shall appear to the commissioners on enquiry before them that such person is entitled to be exempted from the payment of all the duties granted as before mentioned.

Omission of persons not resident in their dwelling houses, or exempted from duty, not to be subject to the penalty.

By *f. 65.* Every person in the receipt of any money or value or the profits or gains arising from any of the sources mentioned in this act, of or belonging to any other person in whatever character the same shall be received, for which such other person is chargeable under this act, shall, within the like period, deliver in manner before directed a list in writing in form aforesaid signed by him containing the name and place of abode, of each person to whom any such property shall belong, together with a declaration whether such person is of full age or a married woman living with her husband or resident in *Great Britain*, or an infant idiot lunatic or insane person or a married woman, for whose payment of the duty hereby charged on her the husband is not accountable by this act, in order that such person according to a statement to be delivered as herein mentioned, may be charged either in the name of the person delivering such list, if the same shall be so chargeable, or in the name of the person to whom such property shall belong, if of full age and resident in *G. B.* and the same be so chargeable by this act; and every person acting in such character, jointly with any other person, shall deliver a list of the name and places of abode, of the person joined with him at the time of delivering such list, and to the same persons to whom such list shall be delivered.

Persons acting for others to deliver in lists, in order to the duty being duly charged.

By *f. 66.* Every person chargeable under this act shall, when required so to do, whether by any general or particular notice given in pursuance of this act, within the period to be mentioned in such notice as aforesaid, prepare and deliver to the person appointed to receive the same, and to whom the same ought to be delivered, a statement in writing, in such form as this act requires, signed by him, containing the

Statements to be delivered of the annual value of property and amounts of profits.

annual value of all lands and tenements in his occupation; whether the same be situate in one or more parish or parishes; and the amount of the profits or gains arising to such person from the sources charged as aforesaid, according to the respective schedules herein mentioned, which amount shall be estimated for the period, and according to the respective rules contained in the respective schedules of this act; to which statement shall be added a declaration, that the same is estimated on all the sources contained in the said several schedules describing the same, after deducting from such profits or gains such sums and no other as are allowed by this act; and every such statement shall be made exclusive of the profits and gains accrued or accruing from interest of money, or other annual payment arising out of the property of any other person, for which such other person ought to be charged by virtue of this act.

Trustees of incapacitated persons to deliver statements.

By s. 67. Every person who shall act in any character as aforesaid for any other person, who by reason of any such incapacity as aforesaid, cannot be charged by virtue of this act, shall also, within the like period, deliver to the person appointed to receive the same under this act, and to whom the same ought to be delivered, and in the same district in which such person ought to be charged on his own account, a statement in writing signed by him, and to be made in such form as before directed, of the amount of the profits and gains to be charged on him, on account of such other person estimated during the period, and according to the rules contained in the said respective schedules, together with such declaration of the manner of estimating the same as aforesaid: provided always, that where two or more such persons shall be liable to be charged for the same person, one return only shall be required; and such return shall be made by them jointly, or by one or more of them on his or their behalf, and the rest of the persons so liable; and it shall be lawful for them, or any of them, to give notice in writing to the commissioners acting in each district where they or any of them shall be called upon for such statement, in what parish or place or parishes or places, they are respectively chargeable by this act on their or his or her own account, and in which of the said parishes or places they are desirous of being so charged on the behalf of such other person for whom they so act in any of the characters before mentioned, and they shall be assessed accordingly by one assessment in such parish or place; provided any one of such persons shall be liable to be charged on his own account in such parish or place; and if more than one assessment shall be made on such persons on the same account, they shall be relieved from such double assessment by like applications to the commissioners as are allowed in other cases by this act.

By

By *f.* 58. Where any person, being trustee agent or receiver, guardian, tutor, curator or committee of or for any person, shall be assessed as herein-after mentioned, in respect of such person; or where any chamberlain, treasurer or other officer of any corporation, company, fraternity or society shall be so assessed in respect of such corporation, &c. as aforesaid, then it shall be lawful for every person so assessed, by and out of the money which shall come to his hands as such trustee, &c. as aforesaid, or as such chamberlain, &c. to retain so much thereof from time to time as shall be sufficient to pay such assessment; and every such trustee, &c. shall be indemnified against every person, corporation company fraternity or society whatsoever, for all payments which they shall respectively make in pursuance of this act.

Trustees and officers of corporations may retain the duties.

By *f.* 68. Every officer of any body, corporation, fraternity, fellowship, company or society shall also, within the like period, prepare and deliver in like manner a statement of the profits and gains to be charged on such body, &c. computed according to this act, together with such declaration of the manner of estimating the same as aforesaid, and such estimate shall be made on the amount of the annual profits and gains of such body, &c. before any dividend shall have been made thereof to any other person corporation or company, having any share or right title in or to such profits or gains, and all such other person corporation or company shall allow out of such dividends a proportionate deduction in respect of the duty so charged; provided that nothing herein-before contained shall be construed to require in such statement the inclusion of salaries wages or profits of any officer of such corporation, &c. otherwise chargeable under this act; provided also, that the statements of the several companies of the *East India* and *South Sea* shall be made exclusive of the dividends and the profits attached thereto, and to be divided amongst the proprietors of the respective stocks belonging to such companies; but the statement of the *East India* company shall include the interest payable on any bonds granted by the said company, which shall become due after the 30th of *September* 1806.

Officers of corporations to be charged for them, and estimates made:

By *f.* 69. If any person who ought by this act to deliver any list declaration or statement as aforesaid, shall refuse or neglect so to do within the time limited in such notice, or under any pretence shall wilfully delay the delivery thereof, and if information thereof shall be given and the proceedings thereupon shall be had before the commissioners, every such person shall forfeit not exceeding twenty pounds, and double the duty at which he ought to be charged by virtue of this act, such penalty to be recovered as any penalty contained in this act is by law recoverable, and the increased duty to be added to

Penalty on persons neglecting to deliver in lists.

Penalty and double duty on informations before commissioners.

except in certain cases.

Penalty on information in courts.

In what cases not liable to penalty.

Temporary absentees to be charged as residents.

Temporary residents to be charged after 6 months residence.

the assessment ; but nevertheless subject to such stay of prosecution or other proceedings by a subsequent delivery of such list, declaration or statement in the case following ; *videlicet*, if any trustee, agent, or receiver, or other person hereby required to deliver such list declaration or statement, on behalf of any other person or persons, shall deliver an imperfect list declaration or statement declaring himself unable to give a more perfect list &c. with the reasons for such inability, and the said commissioners shall be satisfied therewith, the said trustee &c. shall not be liable to such penalty in case the commissioners shall grant further time for the delivery thereof ; and such trustee &c. shall within the time so granted, deliver a list &c. as perfect as the nature of the case will enable him to prepare and deliver : And every person who shall be prosecuted for such offence by action or information in any of his majesty's courts, and who shall not have been assessed in double the duty as aforesaid, shall for every such offence forfeit and pay fifty pounds.

But by *f. 70.* No person to or on whom the assessors shall have not delivered or served a particular notice as aforesaid, shall be liable to the penalties before mentioned, or either of them, for not delivering such statement as before required, if it shall appear to the commissioners for executing this act, on enquiry before them or any two or more of them, that such person is entitled to be exempted from the payment of all and every the duties granted as before mentioned

(vii.)—*Of the liability of particular persons to be charged.*

By *f. 50.* Any subject of his majesty, whose ordinary residence shall have been in *G. B.* and who shall have departed from *G. B.* and gone into any parts beyond the seas, for the purpose only of occasional residence, at the time of the execution of this act, shall be deemed, notwithstanding such temporary absence, a person chargeable to this act, and be assessed and charged accordingly (in any manner herein-after directed) upon the whole amount of his profits or gains, whether the same shall arise from property in *Great Britain* or elsewhere, or from any allowance annuities or stipends (except as herein is excepted) or from any profession employment trade or vocation in *Great Britain* or elsewhere.

By *f. 51.* No person who shall actually be in *G. B.* for some temporary purpose only, and not with any intent of establishing his residence therein, and who shall not actually have resided in *G. B.* for six successive calendar months, shall be charged with the said duties in schedule (D.) as a person residing in *G. B.*, in respect of the profits or gains received from any possessions in *Ireland*, or any other of his majesty's dominions, or any foreign possessions, or from securities in *Ireland*,

Ireland, or any other of his majesty's dominions or foreign securities, but nevertheless every such person shall after such six months residence therein be chargeable for the same from the commencement of the year, in case such person shall have been resident in *G. B.*, or if not so resident, then from the period of his or her having come into *G. B.*

By *f. 52.* Any person who shall depart from *G. B.* after claiming such exemption, and shall again return to *G. B.* before the fifth of *April* next after such claim made, shall be chargeable as a person residing in *G. B.* for the whole of the year in which such claim shall have been made.

Persons departing after claiming exemptions and returning within the year to be charged.

By *f. 53.* All bodies politic corporate or collegiate, companies fraternities fellowships or societies of persons whether corporate or not corporate, shall be chargeable with the like duties as any persons will by this act be chargeable with, and the chamberlain or other officer acting as treasurer auditor or receiver for the time being of every such corporation &c. shall be answerable for doing all such things as shall be required to be done by virtue of this act, in order to the assessing such bodies &c. to the duties granted by this act, and paying the same.

Corporation officers to be charged with duty.

[By 48 G. 3. c. 141. *f. 11.* Where the principal officers under any corporation shall not have appointed commissioners for assessing the officers of such corporation, and returned the same to the office for taxes for the several years elapsed during the continuance of the said last mentioned act, prior to the 6th of *April* 1808, or where such commissioners may have been appointed, but shall not have acted in the execution of the said act before the 6th of *April* 1808, then the duties chargeable under the said act, in respect of any office held under such corporation within *G. B.* shall, during the continuance of the said act, be assessed and charged by the commissioners acting for the division where the said offices shall be exercised, and not in the department of office; and no appointment of commissioners in such department, shall be valid as to any assessment to be made after the 5th of *April* 1808, for any year since the passing of the said act.]

Assessment of corporate officers.

By *f. 199.* Where any person chargeable with the duties hereby made payable as aforesaid, shall be under the age of twenty-one years, or where any person so chargeable shall die, in every such case the parent guardian or tutor of such infant, upon default of payment by such infant, and the executors and administrators of the person so dying, are made liable to and charged with the payments which the said infant ought to have made, or the person so dying was chargeable with; and if such parent guardian or tutor, or such executor or administrator shall neglect or refuse to pay as aforesaid, it shall be lawful to proceed against them in like

Parents and guardians liable for infants, and executors for persons dying.

manner

manner as against any other person making default of payment of the said duties ; and all parents guardians or tutors making payment as aforesaid, shall be allowed all sums paid for such infant, in their accounts, and all executors and administrators shall be allowed to deduct all such payments out of the assets of the person so dying.

Trustees, guardians and receivers to be charged.

By *f.* 54. The trustees guardians tutors curators or committees of any persons being infants or married women lunatics idiots or insane, and having the direction controul or management of the property or concern of such infants &c. whether such infants &c. shall reside in *G. B.* or not, shall be chargeable to the said duties in like manner as would be charged if such infants were of full age, or such married women were sole, or such lunatics idiots or insane persons were capable to act for themselves ; and any persons not resident in *G. B.*, whether subjects of his majesty or not, shall be chargeable in the names of such trustees guardians tutors curators or committees or of any agents or receivers having the receipt of any profits or gains arising as herein mentioned and belonging to such persons, in the like manner as would be charged if such persons were resident in *G. B.*, and in the actual receipt thereof ; and every such trustee &c. shall be answerable for the doing all such things as shall be required to be done by this act, in order to the assessing such persons to the duties granted by this act and paying the same.

Trust property in the court of chancery.

By *f.* 55. The receivers appointed by the court of chancery, or by any other court in *G. B.*, having the direction and controul of any property in respect whereof a duty is charged as herein mentioned, whether the title to such property shall be uncertain or not, or subject to any contingency or not, or be depending or be not ascertained by reason of any dispute or other cause, shall be chargeable to the said duties in like manner as would be charged if the said property was not under the direction and controul of such court, and the title thereto was certain, and not subject to any contingency whatever ; and every such receiver shall be answerable for doing all such things as shall be required to be done by this act in order to the assessing the duties granted by this act, and paying for the same.

Married women.

By *f.* 56. Any married woman acting as a sole trader by the custom of any city or place or otherwise, or having or being entitled to any property or profits to her sole separate use, shall be chargeable to the like duties, and in like manner, except as herein-after is mentioned, as if she was actually sole and unmarried : provided always, that the profits of any married woman living with her husband shall be deemed the profits of the husband, and the same shall be charged in the name of the husband, and not in her name, or of her trust-

see or trustees : provided also, that any married woman living in G. B. separate from her husband, whether such husband shall be temporarily absent from her or from G. B., or otherwise, who shall receive any allowance or remittance from property out of *Great Britain* shall be charged as a feme sole, if entitled thereto in her own right and as the agent of the husband if she receives the same from or through him, or from his property or on his credit.

By §. 57. No trustee who shall have authorized the receipt of the profits arising from trust property by the person entitled thereunto, or by his agent, and which person shall actually receive the same under such authority, nor any agent or receiver of any person of full age, and resident in G. B. (other than married women lunatics idiots and insane persons) who shall return in the manner herein-after required the name and residence of such person, shall be required to do any other act for the purpose of assessing such person, unless the commissioners, acting under this act in respect of the assessment to be made on such person, shall require the testimony of such trustee &c. in pursuance of the directions here-after given.

Trustees of persons of full age, resident in Great Britain, to deliver names and residences.

(viii.)—*Schedule (A.) Duties on landed property.*

By 46 G. 3. c. 65. §. 74. The duties hereby granted, including the duties contained in the Sched. (A.) as herein recited, and the said additional duties, shall be assessed and charged in one sum, under the following rules, which rules shall be considered part of this act.

1. (No. I.)—*General rule for estimating lands tenements hereditaments or heritages, mentioned in Sched. (A.) of the said recited act.*

The annual value of lands tenements hereditaments or heritages charged under Sched. (A.) shall be understood to be the rent by the year at which the same are let at rack rent, if the amount of such rent shall have been fixed by agreement, commencing within the period of seven years preceding the 5th of *April* next before the time of making the assessment; but if the same are not so let at rack rent, then at the rack rent at which the same are worth to be let by the year; which rule shall extend to all lands tenements and hereditaments or heritages capable of actual occupation of whatever nature and for whatever purpose occupied or enjoyed, and of whatever value, except the properties mentioned in No. II. and No. III. of this schedule.

Annual value to be ascertained by this rule except as after stated.

2. (No. II.)

2. No. II.—Rules for estimating the lands tenements hereditaments or heritages herein mentioned, which are not to be charged according to the preceding general rule.

Certain properties charged on the profits.

The annual value of all the properties herein-after described shall be understood to be the full amount for one year, or the average amount for one year, of the profits received therefrom, within the respective times herein limited :

Tythes in kind.

First.—Of all tythes belonging to any lay impropiator, if taken in kind, on an average of three preceding years :

Ecclesiastical dues.

Second.—Of all dues, and money payments in lieu of any tythes (not being tythes arising from lands) belonging to any lay impropiator on the like average :

Tythes compounded.

Third.—Of all tythes (arising from lands) if compounded for, and of all rents and other money payments in lieu of tythes (arising from lands belonging to any lay impropiator as aforesaid) on the amount of such composition rent or payment for one year preceding :

The said duty in each case to be charged on the lay impropiator his lessee or tenant entitled to such tythes or payments, or his or their agent or factor, except in the cases mentioned in the fourth rule of No. IV. of Schedule (A.) :

Manors.

Fourth.—Of manors and other royalties, including all dues and other services, or other casual profits (not being rents or other annual payments reserved or charged) on an average of seven preceding years, to be charged on the lord or lady of such manor or royalty or person renting the same :

Fines.

Fifth.—Of fines received in consideration of a demise or demises of lands or tenements (not being parcel of a manor or royalty demisable by the custom thereof) on the amount so received within the year preceding by or on account of the party or parties ; provided that in case the said party or parties shall prove, to the satisfaction of the commissioners for general purposes in the district, that such fines or any part thereof have been applied as productive capital, on which a profit has arisen or will arise otherwise chargeable under this act for the year in which the assessment shall be made, it shall be lawful for the said commissioners to discharge the amount so applied, from the profits liable to assessment under this rule.

Other profits from lands.

Sixth.—Of all other profits arising from lands tenements hereditaments or heritages not in the actual possession or occupation of the party to be charged and not before enumerated, on a fair and just average of such number of years, as the commissioners for the execution of this act shall on the statement of the party to be charged judge proper

per (except such profits as may be liable to deduction in pursuance of the ninth or tenth rules in Number IV. herein-after mentioned) to be charged on the receivers of such profits or persons entitled thereto.

By 48 G. 3. c. 141. s. 7. In estimating and assessing lands held for a longer period than 7 years by any tenant or tenants under a demise from year to year, or at will, to the duties granted on the profits of property professions trades and offices, the same shall be estimated and assessed throughout *Great Britain* at the annual value thereof, unless the tenant or tenants shall shew and prove to the satisfaction of the commissioners of the division acting in execution of the last mentioned acts, that the same lands are held under a demise which commenced by agreement made, and a rent fixed, within the period of seven years, on the determination of the former demise thereof by due notice within the said period.

Tenancies from year to year.

3.—(No. III.) *Rules for estimating the lands tenements hereditaments or heritages herein-after mentioned, which are not to be charged according to the preceding general rule.*

The annual value of all the properties herein-after described shall be understood to be the full amount for one year, or the average amount for one year, of the profits received therefrom within the respective times herein limited.

First.—Of all tythes belonging to any ecclesiastical person in right of his church or by endowment, if taken in kind, on an average of three preceding years :

Tythes.

Second.—Of all dues and money payments in right of the church or by endowment, or in lieu of any tythes (not being tythes arising from any lands) and on all teinds in *Scotland*, belonging to any ecclesiastical person as aforesaid, on the like average :

Payment in lieu of tythes.

Third.—Of all tythes (arising from lands), if compounded for, and of all rents and other money payments in lieu of tythes (arising from lands) belonging to any ecclesiastical person as aforesaid, on the amount of such composition rent or payment for one year preceding :

Composition for tythes on land.

The said duty in each case to be charged on the ecclesiastical person his lessee or tenant entitled to such tythes or payments, or his or their agent or factor, except in the cases mentioned in the 4th Rule No. IV. of Schedule (A.) :

Fourth.—Of quarries of stone slate limestone or chalk, on the amount of profits in the preceding year :

Quarries.

Fifth.—Of mines of coal tin lead copper mundic iron and other mines, on an average of five years, subject to the provisions concerning mines contained in this act :

Mines.

Sixth.—Of iron works salt springs or works alum mines or works waterworks streams of water canals inland navigations docks drains and levels fishings rights of markets and fairs

Ironworks, &c.

fairs tolls ways bridges ferries and other concerns of the like nature from or arising out of any lands tenements hereditaments or heritages, on the profits of the year preceding :

The duty in each of the three last rules to be charged on the persons corporations companies or societies of persons whether corporate or not corporate carrying on the concern, or on their respective agents treasurers or other officers having the management thereof, or being in the receipt of the profits thereof, on the amount of the produce or value thereof, and before paying rendering or distributing the produce or the value, either between the different persons or members of the corporation company or society engaged in the concern, or to the owner or owners of the soil or property, or to any creditor or other person whatever having a claim on or out of the said profits, and all such persons corporations companies or societies, shall allow out of such produce or value a proportionate deduction out of the duty so charged, and the said charge shall be made on the said profits exclusively of any lands used or occupied in or about the concern :

The computation of duty arising in respect of any such mine carried on by a company of adventurers shall be stated jointly in one sum, provided, that if any adventurer shall declare his proportion in such concern in order to a separate assessment, it shall be lawful to charge such adventurer separately, and nothing herein contained shall restrain any adventurer so separately assessed from deducting or setting against his profits acquired in one or more of such concerns, his loss sustained in any other of the said concerns over and above the profits thereof, provided that such loss shall not exceed the proportion of such adventurer which shall have been duly proved by the company in their computation of duty, and shall have been allowed by the respective commissioners, and in every such case, one assessment only shall be made on the balance of such profit and loss of the adventurer so separating his account in the parish or place where such adventurer shall be chargeable to the greatest amount, and the amount of each person's share so proved and allowed shall be deducted from the general assessment of the company or companies to which such adventurer shall belong, and the respective commissioners shall cause the assessments on the said companies to be rectified as the case may require ; and the certificate of the commissioners making such separate assessment shall be an authority to the commissioners acting in another district to cause the assessments on the respective companies to which such assessments shall belong to be rectified ; and in case such loss shall arise in a different district than where such separate assessment shall be to be made a certificate of the amount of such loss and the proportion of such adventurer therein shall

be proof of the deduction to be made by the commissioners making such assessment.

By 50 G. 3. c. 106. s. 1. It is enacted that upon every demise for years of lands situate in any part of *Great Britain*, made or to be made in consideration of a rent reserved, and also in consideration of certain improvements to be made in the lands demised at the proper cost and charge of the lessee or tenant, if it shall be proved to the satisfaction of the commissioners for the general purposes of the said act, acting for the division where such lands are situate, that the rent reserved hath been settled on the estimate of the medium annual value of the said lands, computed on an average for the whole term granted in expectation of the progressive improvement of the said farm, at the cost and charge of the said lessee or tenant, and that the said annual rent is fixed and made payable to the same amount in each year on the said average, whereby the said rent so estimated and made payable did or doth exceed the just annual value of the said lands, as the same were or are worth to let at rack rent on or at the commencement of the term granted in and by the said demise, then the estimate of the annual value, and the assessment thereupon, shall be made as follows; that is to say, in regard that the rent reserved hath been settled on a fair average of the annual value of the said lands, computed on the whole of the term so granted, the said commissioners shall cause the said duty payable in respect of the property in the said lands to be computed and charged on the amount of the rent so reserved and made payable as aforesaid, for each year of assessment during the said term to come after the passing of this act, without variation during the said term; subject nevertheless to such deductions as by the said act are allowed; and they shall cause the said duty payable in respect of the occupation of the said lands, to be computed and charged on the full and just value of the said lands, to be ascertained as hereinafter mentioned; that is to say, on all such demises made before the passing of this act, the annual value of the said lands shall be the rack rent at which the same are worth to be let by the year, to be ascertained at the commencement of the first year of assessment after the passing of this act, by a valuation to be made thereof under the powers and according to the directions of the said act, and to the satisfaction of the said commissioners, which valuation shall be in force for the term of seven years of assessment, if the said demise of the said lands shall not sooner expire; and a like valuation of the said lands shall be made at the end of every seventh year of assessment during the continuance of the said demise, and the amount ascertained by such valuation shall be deemed to be the rack rent at which the said lands are worth to be let

Rules to be observed in assessing land at reserved rents and for improvement.

for

for each period of seven years, if the said demise shall not sooner expire, and the assessment thereupon shall in each year during the said respective periods of seven years be made on the last or preceding valuation; and on all such demises to be made after the passing of this act, the annual value of the said lands shall be the rack rent at which the same are worth to be let by the year, to be ascertained at the commencement of the said demise by a like valuation to be made thereof in manner aforesaid, and to be renewed at the end of every seventh year during the said demise; and each valuation so made shall be in force for the term of seven years, and shall govern the assessment to be made in respect of the occupation of the said lands as is before directed.

Relief to be
granted for
losses sustained
by occupiers and
owners.

And by *f. 2.* Whereas losses have been occasioned by floods or tempests, for which relief should be granted to the occupiers of such lands on which damage has been sustained, and also to the owners thereof who shall have granted compensations to their tenants on occasion of such losses; it is enacted, that whenever by floods or tempests any loss shall have been or shall be sustained on the growing crops, or on the stock on lands demised at a reserved rent without fine or other sum paid, given, or contracted for, in lieu of a reserved rent or any part thereof, or the said lands or any part thereof shall by such floods or tempests be rendered incapable of cultivation for any year, and it shall have been or shall be proved on oath or solemn affirmation to the satisfaction of the commissioners for the general purposes of the said act, acting for the division where the said lands are situate, that the owner hath in consideration of such losses abated or agreed to abate to the tenant the whole or any proportion of the rent reserved or payable by him, for any year or years of such demise, it shall be lawful for them to abate in the assessment made in respect of the property in the said lands under the said act for the same year or years for which such rent hath been abated, and to discharge therefrom the whole or the like proportion of duty as the said owner or owners shall appear on such proof as aforesaid to have abated of or from the rent made payable on such demise; and also the said commissioners in every such case shall abate in the assessment made in respect of the occupation of the said lands for the same year or years, and discharge therefrom the like proportion of duty as shall have been abated or discharged from the assessment made in respect of the property on the said lands for the cause aforesaid.

By *f. 3.* The like relief is extended to occupiers and owners where the owners are incapable of consenting to abatement of rent.

By *f. 4.* Where the like losses shall have been sustained on
lands

Abatement of
assessment in
case of losses.

lands in the occupation of the owner, and made before the said commissioners to their satisfaction as aforesaid, they shall abate in the several assessments made in respect of the property in or occupation of the said lands, and discharge the whole or any part of the said respective duties, and in proportion to the losses so sustained, and to the amount which they shall be of opinion would or ought to have been abated, pursuant to the provisions of the said clause if the said lands had been demised to a tenant, and a proportionate abatement had been made to such tenant under the same circumstances.

By *f. 5.* Upon all claims made before the passing of this act to commissioners for the general purposes of the said act, for abatements for losses sustained by any causes before mentioned, the said commissioners may make such abatements in like manner and cases as they are herein authorized to give relief upon claims to be made after the passing of this act, and all abatements of duty made by commissioners in the like cases and under the like circumstances as aforesaid, are hereby declared to be confirmed and valid and of the like force as if the claims for such abatements or such abatements had been respectively made in pursuance of this act; and the said respective commissioners are hereby indemnified for so doing.

Indemnification
of commission-
ers.

And by *f. 6.* If any person shall be guilty of making any false claim for such abatement, or of any fraud or contrivance in making such claim, or in obtaining any such abatement, or shall fraudulently or untruly declare the amount or value of such losses, or of any abatement made or agreed to be made in the rent of the lands in his occupation, on account of such losses, with intent fraudulently to obtain any such abatement, he shall forfeit 50*l.* and treble the amount of duty charged on such person in respect of the said lands; and if any owner of any such lands whereon such losses have been sustained, or any other person whatever, shall abet the making such fraudulent claim, or shall fraudulently or untruly declare the amount or value of any abatement made or agreed to be made in the rent of the said lands or amount of such losses, with intent fraudulently to obtain for himself, or for his tenant, or for the owner or tenant, any such abatement, he shall forfeit 100*l.*, the said penalties to be recovered and applied as any penalties may be recovered and applied by the said act.

Penalty for
making false
claim.

f. 7. Relates to the place of assessment of the *East India Docks.*

East India dock
company how
to be assessed.

4. (No. IV.)—*Rules and regulations respecting the said duties.*

First.—All properties chargeable to the duties in Schedule (A.) shall be charged in the parish or place where the same are situate, and not elsewhere, except as herein-after is excepted:

To be charged
in the parish.

Except canals
and roads.

Provided, that the profits arising from canals inland navigations streams of water drains or levels, or from any roads or ways of a public nature, and belonging to or vested in any company of proprietors or trustees whether corporate or not corporate, may be stated in one account, and charged in the city town place at or nearest to the place where the general accounts of such concern shall have been usually made up; and it shall be lawful for the said proprietors or trustees, having paid the duties so chargeable, either to deduct a just proportion thereof from the interest payable to the creditors of the said properties, or any of them, or to pay such interest in full, without making any such deduction; and it shall be lawful for the said creditors to receive such interest in full, and they or any of them, shall not be liable thereupon to the penalty herein-after contained :

Manors.

Provided also, that the profits arising from any manor or royalty as aforesaid which shall extend into different parishes, may be assessed in one account in the parish where the court for such manor or royalty shall have been usually held : provided also, that the profits arising from all fines received by the same person body politic or corporate or company, may be assessed in one account, where the person or persons to be charged under the regulations of this act shall reside :

Lands in the
same occupation
to be charged
according to the
parishes.

Second.—All lands occupied by the same person or persons shall be brought into every account thereof required to be delivered by such person or persons under this act, whether the same shall be occupied by such person or persons as owner or tenant, or as tenant under distinct owners, or shall be situate in the same or in different parishes or districts, but the charge thereon shall be in each parish or district, in proportion to the value of the property situate therein : of which proportions the occupier or occupiers shall be required to deliver an account in each parish wherein any part of such lands are situate, and a separate estimate shall be given of lands in the same occupation belonging to distinct owners ; and if any occupier of lands situate in different parishes or places shall wilfully omit to deliver an account of the lands so occupied in each parish or place, although such occupier may not reside in one or more of such parishes or places, every such occupier, over and above the penalty herein imposed, shall be charged for the lands so admitted at double the rate contained in this act :

Lands in dif-
ferent parishes
to be charged in
either.

Provided always, that lands held under the same demise, or in the occupation of the same person as owner, although situate in different parishes, may be charged in either parish at the discretion of the respective commissioners, if the said commissioners

commissioners shall be satisfied that the proportion in each parish, either in respect of quantity, rent, or value of the said lands cannot be ascertained, in case the whole of the said lands shall be situate in the same district of commissioners; and if the said lands extend into different districts of commissioners, then the assessment shall be made in that district where the occupier of such lands doth reside :

Third.—For any dwelling house in the occupation of a tenant, which with the buildings or offices belonging thereto and the land occupied therewith, shall be under the annual value of 10*l.* and for all lands and tenements let to any tenant for a less period than one year the assessment thereupon may, if the commissioners for executing this act shall think fit, be made on the landlord, but so as not to impeach the remedy of recovery of the duty from the occupier in default of payment by the landlord :

Houses under
rel. charged on
landlords.

Fourth.—For any compositions rents or other payments in lieu of tythes, the assessment thereupon may, if the commissioners for executing this act think fit, be made on the respective occupiers of the lands from which such tythes arise, or on the respective persons liable to the payment of such compositions rents or other payments; and the said commissioners may direct notices to be delivered to such persons respectively, for the purposes of obtaining returns of the value of such compositions rents and payments, subject to the like penalties and under the regulations of this act for returns of the annual value of lands :

Tythes may be
charged on oc-
cupiers of land.

Fifth.—If any mine enumerated in the fifth rule, No. 3. of this schedule, has, from some unavoidable cause, been decreased, and is decreasing in the annual value thereof, so that the average of five years will not give a fair and just estimate of the annual value thereof, it shall be lawful, after due proof before the commissioners for general purposes in the district where such mine shall be situate, to compute such annual value on the actual amount of such profits and gains in the preceding year ending as aforesaid, subject to such abatement on account of diminution of duty within the current year, as is herein provided in other cases; and if any such mine shall, from some unavoidable cause, have wholly failed, it shall be lawful for the said commissioners, on due proof thereof, wholly to discharge any assessment made thereon :

Mines failing,

or failed.

Provided always, that whenever any such mine shall be situate or the produce thereof shall be manufactured in a different place than where the produce thereof shall be sold, the profits arising therefrom shall be assessed and charged in the parish and district where the said mine is

situate, or where the produce thereof is manufactured and not elsewhere:

Duties may be ascertained according to the length of possession.

Sixth.—If in estimating the value of any of the properties enumerated in No. 2. or No 3. of this schedule as before mentioned, it shall appear that the account required by the said rules, or any of them, cannot be made out by reason of the possession or interest of the party to be charged thereon having commenced within the time for which the account is directed to be made out, it shall be lawful for the said party or parties and all persons concerned in executing this act, to estimate the profits of one year, in proportion to the profits received within the time elapsed since the commencement of such possession or interest:

Foreign ministers.

Seventh.—The duty to be charged under this schedule, in respect of any house or tenement occupied by any accredited minister from any foreign prince or state, shall be charged and paid by the landlord or person immediately entitled to the rent of the said house or tenement:

Official houses.

Eighth.—The duty to be charged in respect of any house tenement or apartment belonging to his majesty, his heirs or successors, in the occupation of any officer of his majesty, his heirs or successors, in right of his office or otherwise (except apartments in his majesty's royal palaces) shall be charged on and paid by the occupier of such house tenement or apartment, upon the annual value of each house tenement or apartment so occupied:

Occupiers to recover from landlord, according to the rate, by deducting the duty out of the rent.

Ninth.—The occupier or occupiers of any lands tenements hereditaments or heritages, being respectively tenants of the same and paying the said duties, shall deduct so much thereof as in respect of the rent payable to the landlord or landlords for the time being, (all sums allowed by the commissioners being first deducted) as a rate of two shillings for every twenty shillings thereof, would by a just proportion amount unto, which sums shall be deducted out of the first payment thereafter to be made on account of rent; and the receivers of his majesty, his heirs and successors, and all landlords, both mediate and immediate, their respective heirs executors administrators and assigns, according to their respective interests, and their respective receivers or agents, shall allow such deductions and payments upon receipt or the residue of the rents, under the penalty herein contained; and the tenants paying the said assessment, shall be acquitted and discharged of so much money, as if the same had actually been paid unto the person or persons to or for whom his or their rents shall have been due and payable; and the occupier or occu-
piers

piers of land charged on the amount of any composition rent or payment for tythes arising therefrom and paying the said duties, shall be entitled to make the like deductions from such composition rent or payment on paying the same:

Tenth.—Where any such lands tenements or hereditaments are subject or liable to the payment of any rent charge annuity fee farm rent, rent service quit rent feu duty tiend duty stipends to licensed curates, or other rent or annual payment thereupon reserved or charged, the landlords owners or proprietors, by whom any deductions or payments shall have been allowed as aforesaid, and the landlords owners and proprietors being respectively occupiers and charged to the said duties, shall abate and keep in their hands out of every such rent charge &c. &c. so much of the said duties or payments, on account of the same, (the just proportion of the sums allowed by the commissioners being first deducted), as a like rate of two shillings for every twenty shillings on such rent charge &c. &c. respectively, shall by a just proportion amount unto; and the receivers of his majesty, his heirs or successors, and all persons who are or shall be anywise entitled unto such rents &c. their receivers deputies or agents, are required to allow such deduction and payments according to such rate, upon the receipt of the residue of such monies as shall be due and payable to them for such rents duties or annual payments, without any fee or charge for such allowance, and under the penalty herein contained; and the landlord owner proprietor and occupier respectively, being charged as aforesaid, or having allowed such deductions or payments shall be acquitted and discharged of so much money, as if the same had actually been paid unto such person or persons to whom such rent charge &c. &c. shall have been due and payable.

Landlords may recover from others having interest at the like rate.

By s. 194. If any difference shall arise between tenant and landlord, or any other person or persons to whom any interest, rent, rent charge, annuity, fee farm rent, rent service quit rent feu duty or other rent or annual payment, shall be payable, touching the sums to be deducted thereout on account of the duties hereby charged having been paid, or between the occupier for the time being, and any former occupier of any messuages lands tenements hereditaments or heritages, his her or their executors administrators or assigns, touching the proportion of duty to be paid or allowed by either party, the respective commissioners for general purposes, or any two or more of them in their several districts, shall have authority, and they are hereby required, to settle the proportions of such payments and deductions as shall be according to the directions of this act; and in default of pay-

Commissioners to settle a difference between landlord and tenant.

ment to levy the same respectively under the like powers as they might have levied the same if the assessment had been made in the same proportions and to pay over the same to the collector or party as the case may require, and the judgement and determination of such commissioners shall be final.

Contracts between landlords and tenants, or other persons not to be binding contrary to this act.

By §. 195. No contract covenant or agreement between landlord and tenant, or any other persons, touching the payment of taxes and assessments to be charged on their respective premises, shall be deemed or construed to extend to the duties charged thereon as aforesaid, nor to be binding contrary to the intent and meaning of this act, but that all such duties shall be charged upon and paid by the respective occupiers, subject to such deductions and repayments as are by this act authorized and allowed; and all such deductions and repayments shall be made and allowed accordingly, notwithstanding such contracts covenants or agreements.

Mortgagees in possession liable.

Eleventh.—Where any mortgagee, or creditor in any heritable bond or wadset, shall be in possession of the lands tenements or hereditaments mortgaged or secured, such mortgagee or creditor shall be chargeable as occupier when in the actual occupation of the same, and when not in the actual occupation of the same, shall be liable to such deductions as any other landlord would be; and upon the settlement of accounts between such mortgagee or other creditors as aforesaid and the mortgagor or debtor, the duty payable in respect of the amount of the interest payable upon such mortgage or other debt as aforesaid, shall be taken and allowed as so much money received by such mortgagee or other creditor as aforesaid on account of such interest:

Owner dying how the duty is to be paid,

Twelfth.—Where any houses lands or tenements shall be occupied by the owner at the time the assessment under this act shall be made, who shall die before payment of the duty, the heirs, executors administrators or assigns, or other persons who on such death become entitled to the rents and profits thereof, shall be liable to the payment of all arrears of the said duty due at the time of such death, and to all subsequent instalments for that year, according to their respective interests, without any new assessment:

Houses occupied by and belonging to different persons to be charged distinct.

Thirteenth.—Where any house shall be divided into distinct properties, and occupied by distinct owners or their respective tenants, such properties shall be charged distinct on the respective occupiers:

Deductions how to be allowed.

Fourteenth.—No deduction from the assessment on any lands tenements hereditaments or heritages shall be allowed in any case not authorized by this act, nor unless an account in writing signed by the occupier thereof, or by the party claiming such deduction, stating the nature and amount thereof, shall have been delivered to the assessor within the

the time and pursuant to the notice delivered by such assessors; and if any such deduction shall have been made or allowed contrary to this act, or without such account in writing as aforesaid, it shall be lawful for the surveyor or inspector to surcharge the assessment, and to charge therein a sum equal to the amount of duty by which the assessment shall have been diminished on occasion of such deduction, which surcharge shall not be annulled or vacated under any pretence whatever, but shall stand part of the assessment.

5. No. V.—*Particular deductions from schedule (A.)*

Deductions.

- First.**—For the amount of the tenths and first fruits duties and fees on presentations paid by any ecclesiastical person, within the year preceding that in which the assessment shall be made : Tenths, &c.
- Second.**—For procurations and synodals paid by ecclesiastical persons on an average of seven years preceding that in which the assessment shall be made : Procuration, &c.
- Third.**—For repairs of collegiate churches and chapels, and chancels of churches, or of any college or hall in any of the universities of *Great Britain*, by any ecclesiastical or collegiate body rector vicar or other person or persons bound to repair the same, on an average of twenty-one years preceding as aforesaid, or as nearly thereto as can be produced : Repairs of chancels.
- Fourth.**—For the amount charged on lands tenements hereditaments or heritages, towards an aid granted by an act passed in the thirty-eighth year of the reign of his present majesty, intituled, *An act for granting an aid to his majesty, by a land tax to be raised in Great Britain, for the service of the year one thousand seven hundred and ninety-eight*, where the charge thereon shall not have been redeemed. Deductions for land tax.
- Fifth.**—For the amount charged on lands tenements hereditaments or heritages by a public rate or assessment in respect of draining fencing or embanking the same : For drainage, &c.
- In all which cases there shall be allowed and deducted out of the assessment to be made thereon in respect of the property, unless such payments or any part thereof shall be made by a tenant or tenants, such sum of money as a like rate of two shillings for every twenty shillings of the sums paid would by a just proportion amount unto :
- Provided always, that the allowances to be granted, in pursuance of the first second or third cases, may be granted to the ecclesiastical or collegiate body rector vicar or other person or persons aforesaid liable to the charges therein mentioned, in one sum, and in the same manner as allowances are to be granted in respect of income, either by
- deducting

Allowances to ecclesiastical bodies, &c. how to be made.

deducting the same from the assessment upon them (if any) or by certificate; and such allowances shall be classed as allowances in respect of income.

6. (No. VI.)—*Allowances to be made in respect of the said duties in schedule (A.)*

Exemptions for colleges and halls.

For the duties charged on any college or hall in any of the universities of *Great Britain*, in respect of the public buildings and offices belonging to such college or hall, and not occupied by any individual member or members thereof, or by any person paying rent for the same, and for the repair of the public buildings and offices of such college or hall, and the gardens walks and grounds for recreation repaired and maintained by the funds of such college or hall:

Or on any hospital public school or alms house in respect of the public buildings offices and premises belonging to such hospital public school or alms house, and not occupied by any individual officer or the master thereof, whose profits or emoluments however arising shall exceed fifty pounds *per annum*, or by any person paying rent for the same, and for the repairs of such hospital public school or alms house and offices belonging thereunto, and of the gardens walks and grounds for the sustenance or recreation of the hospitalers scholars and alms-men, repaired and maintained by the funds of such hospital school or alms house:

For the duties charged on any cottage or tenement not exceeding the annual value of forty shillings belonging to and occupied by any person not otherwise chargeable to any of the duties contained in this act:

The said allowances to be granted by the commissioners for general purposes in their respective districts:

Rents of hospitals and charity lands.

Or on the rents and profits of messuages lands tenements or hereditaments belonging to any hospital public school or alms house or vested in trustees for charitable purposes, so far as the same are applied to charitable purposes:

The said allowances to be granted on proof before the commissioners appointed as aforesaid or to be appointed under the authority of this act for special purposes of the due application of the said rents and profits to charitable purposes only, and in so far as the same shall be applied to charitable purposes only;

The said allowances to be claimed and proved by any steward agent or factor acting for such school hospital or alms house or other trust for charitable purposes, or by any trustee of the same, by affidavit to be taken before any commissioner for this act in the district where such person

person shall reside, stating the amount of the duties chargeable, and the application thereof, and to be carried into effect by the said commissioners for special purposes, and according to the powers vested in such commissioners, without vacating aking or impeaching the assessment to be made under this act on or in respect of such properties; which assessments shall be in force and levied notwithstanding such allowances.

(ix.)—*Schedule (B.)*

By 46 G. 3. c. 65. s. 75. The duties hereby granted including the duties contained in the schedule marked (B.) as herein recited, and the said additional duties before mentioned, shall be assessed and charged in one sum under the following rules; which rules shall be deemed to be a part of this act, and to refer to the said last mentioned duty as if the same had been inserted under a special enactment.

Rented duty, and additional duties in schedule (B.) and rules deemed part of the act.

1. (No. VII.)—*Rules for assessing and charging the properties under schedule (B.)*

The duties last before mentioned shall be charged in addition to the duties to be charged under schedule (A.) on all the properties in this act directed to be charged to the said duty, according to the general rule in No. 1. schedule (A.) before mentioned on the full amount of the annual value thereof estimated as by this act is directed (except a dwelling house and the domestic offices thereunto belonging, and which dwelling house and offices shall not be occupied by virtue of one and the same demise with a farm of lands for the purpose of farming such lands, or with a farm of tythes for the purpose of farming the same; and except warehouses or other buildings occupied for the purpose of carrying on a trade or profession); provided, that in all cases where lands in *England* are not subject to tythes or to any modus or composition real in lieu thereof, there shall be deducted out of the duties contained in this schedule a sum not exceeding one-eighth part thereof; and in all cases where such lands are subject to a modus or composition real, and not subject to any tythes, there shall be deducted out of such duties, so much thereof as, together with the like rate on such modus or composition real, shall not exceed one-eighth part of such duties as aforesaid; and in all cases where such lands are subject to a modus or composition real in lieu of certain specific tythes, and also are subject to certain other specific tythes, or where such lands are free of certain specific tythes, and are subject to certain other specific tythes, the annual value of such lands shall, for the purpose of charging the duties under

To be charged in addition to schedule (A.) on the same properties, except for dwelling houses distinct from farms and tythes.

One-eighth to be deducted from rent of tythe-free lands.

to the rent reserved in case the same shall have been let within the period of seven preceding years; and if not so let, the estimate shall be made according to the general rule in schedule (A.) with the like addition thereto of the amount of such payment.

In ascertaining
rent according
to price of corn
or grain,

Third.—Where the amount of rent of lands reserved in money shall depend in the whole or in part on the price of corn or grain, the estimate for the purpose of charging the duties in schedule (A.) shall be made on the amount payable according to the average prices or fiars fixed in the year preceding the year appointed for payment of the duty and in the same manner by which such rents have usually been ascertained between the landlords and tenants; but where a whole or part of the rent shall be reserved in corn or grain, then the said estimate shall be made on the like average price or fiar, computed on the quantity of corn or grain delivered or to be delivered in the year appointed for payment of the duty; or where such computation cannot be made, the estimate aforesaid may be made on the annual value of such lands estimated according to the said general rule:

and according
to produce.

Fourth.—Where the amount of rent reserved on lands tenements hereditaments or heritages, shall depend on the actual produce thereof, either in respect of the price or quantity of such produce, the estimate for the purposes of charging the duties in schedule (A.), shall be made on the amount or value of such produce in the year preceding the year appointed for payment of the duty according to the prices fixed, and according to the quantity produced in that year, by the same rules and in the same manner, by which such rents have usually been ascertained between the proprietors and their lessees or tenants, and where the prices or fiars shall vary in the two years of assessment, or the amount of produce shall vary in those years, the assessment shall on appeal or surcharge be rectified accordingly:

In Scotland the
estimate to be
made according
to the general
rule.

Fifth.—Every estimate of such property in *Scotland* shall be made without reference to the cess or tax roll or valued rents heretofore used in *Scotland*, or any rent thereon, and shall be made according to the general rule contained in schedule (A.) to the best of the belief and judgment of the commissioners, assessors, and others employed in charging the said several duties.

For estimating
lands and tenements.

By s. 76. Upon every account of the annual value of the several properties aforesaid, to be charged under schedules (A.) and (B.) delivered in manner before directed to the assessors, it shall be lawful for the said assessors to make an estimate of the said property on the amount of the sum ascertained

tained by such account, if the said assessors shall be satisfied with such amount, but if the said assessors shall not be satisfied therewith, or if no such account shall have been returned, or if the occupier or other persons aforesaid shall not be resident within the limits of the district of such assessors, and no such return shall have been made, then the said assessors shall make an estimate to the best of their judgment, of the annual value of such property; and in doing so it shall be lawful for such assessors to make such estimate according to the following rules; *videlicet*,

5. (No. XI.)—*Rules for making estimates, the occupier being non-resident.*

First.—Where the last rate made for the relief of the poor in any parish or place shall be made throughout by a pound rate on the annual value, as the same would be estimated according to schedule (A.) the estimate thereon to be made under this act shall be made on the same sums respectively as in such rate :

To be made on the same sums if rated to the poor on full value.

Second.—Where the said rate shall be made throughout by such pound rate or any proportionate part of the annual value as aforesaid, the proportion thereof shall be observed as in the said rate, but the estimate thereon to be made under this act, shall be made at the same sums respectively as they would have been estimated at, if the said rate had been made on the full amount of such annual value :

To be increased to full value if made on prop. r-
tionate to the same.

Third.—Where properties of different kinds shall be rated in the said rate, according to different proportions of the value thereof as aforesaid, or shall be rated therein of different rates of such value, but nevertheless the properties of the same kind shall be rated in a due proportion to each other, both as to the value and rate of charge, in every such case the rule of rating lands, both as to the value and the rate of charge, shall, in making the estimate under this act, be observed throughout, as well with respect to such lands as to the other properties therein rated, so far as relates to such rates as shall be made either on the full value of the properties, or on any proportionate part thereof :

If in different proportions, the rate for lands to be the guide throughout.

Fourth.—In all cases not falling within the three preceding rules, but nevertheless where the properties shall appear to the assessors to be rated in the said rate in the same proportion to each other, though the proportion of such rate to the value of the property rated be not known, and the assessors are able to ascertain the rack rent of all or any of the properties which shall have been so let within the period of seven years preceding, within the limits of the parish or place where the said assessors shall act, they shall make an estimate of such properties on the amount of such rents respectively, and the amount contained in the esti-

Where the proportions are not known.

mates so made shall form the basis on which the estimates of other properties, of which the rack rent shall not have been so ascertained, shall be made, and they shall make their estimates of all other property in a sum bearing the same proportion, as near as the same can be computed, to the amount of such first estimate, as the sums at which all such other properties of which the rent hath been so ascertained are valued at in such rate bear to the sum charged in the said rate on the said properties first estimated; and they shall apportion the sum so estimated, on such other properties, in the same proportion, as near as the same can be computed, as they are, respectively rated at in such rate, and shall make their estimate under this act in such sums respectively; and in cases where the same rule of proportion shall not have been observed in rating different kinds of property, then the assessors shall make an estimate as above directed upon each of such kinds of property for the purpose of forming a basis on which the estimates of other properties of the same kind may be made.

Assessor allowed to estimate messuages &c. under 10l.

By s. 77. Where any messuage or tenement together with the offices gardens and lands occupied therewith, or any lands separately occupied, shall be under the annual value of ten pounds, and the assessors shall be able to estimate it, either by the rules before mentioned, or from their own knowledge, or otherwise it shall be lawful for such assessors to make an estimate of such property accordingly, to the best of their judgment, without requiring a return of the annual value as aforesaid, unless the surveyor or inspector shall object to such estimate, and shall require a notice for that purpose to be delivered; and if any assessor, not having given such notice, shall neglect to estimate the said properties, and make a return of the true annual value thereof according to this act, every such assessor shall forfeit any sum not exceeding ten pounds.

Assessors may make their estimates of lands or the production of the lease by the tenant, according to the reserved rent.

By s. 78. In case any tenant at rack rent shall produce to the assessors the lease or agreement in writing under which he immediately holds any premises to be charged as aforesaid according to the general rule, the production of which every such assessor is hereby authorized to demand whenever the same shall appear to him necessary; and in case it shall appear by such lease or agreement that the same shall have been let within the period of seven preceding years, and no other consideration in money than the rent reserved shall be contained in such therein, it shall be lawful for such assessors to make their estimate according to such rent, but such assessment shall not be binding, in case it shall appear to the commissioners that the said lease or agreement doth not express the full consideration, whether in money or value for the demise, or the rent *bonâ fide* paid for

If such lease shall be bona fide at rack rent,

for the same, or that the rent reserved is less than rack rent on occasion of repairs or improvements done or to be done by the lessee, or assigns, or is made in any other respect with intent to conceal the annual value of such premises, or to diminish the estimate to be made thereon, or hath been assigned to such tenant, or any former tenant, for any consideration in money or value paid or agreed to be paid; provided always, that regard shall be had to the cases before mentioned, where the amount of the reserved rent shall be encreased by reason of any covenant or agreement by the landlord, to discharge the tenants taxes rates assessments or duties before mentioned, or where the same shall be decreased by reason of any covenant or agreement by the tenant to discharge the landlord's taxes rates or assessments, or on occasion of any expences incurred or to be incurred by the lessee or assigns whether mentioned or not mentioned in such lease or agreement, and to the deductions to be made on account of any aid or public rate or assessment before described.

And by §. 79. In case any tenant at rack rent, under any parole demise from year to year, within the period mentioned in the said general rule, or any tenant who, by reason of any mortgage or other contract, shall not have the custody or possession of, or the power over any lease or agreement in writing under which he holds the premises demised, within the said period, and who shall give reasonable proof to the commissioners why he is unable to produce the same, shall deliver to the assessors an account in writing signed by him, of the actual amount of the annual rent reserved on such demise, such account so delivered shall be deemed a compliance with this act, in all cases where he may be called upon, under the authority of this act, to produce such lease or agreement; and it shall be lawful for such assessors to make their estimate according to such rent, any thing before contained to the contrary notwithstanding; but such assessment shall not be binding, in case it shall appear to the said commissioners that the said account doth not express the full consideration for such demise, or the rent *bonâ fide* paid for the same, or that the rent reserved is less than the rack rent on occasion of any payments as aforesaid made or to be made by such tenant, or is made in any other respect with intent to conceal the annual value of the premises held under such demise, or to diminish the estimate to be made thereon.

By §. 80. Every such tenant who shall wilfully deliver any false account, or who shall wilfully produce any lease or agreement with a fraudulent intent to conceal the annual value of the premises therein comprized, or to diminish the estimate to be made thereon, shall forfeit the sum of twenty pounds, and shall be liable to be charged in double the duty hereby

Tenants at rack rent under a parole demise, or not able to procure leases, to deliver an account of the value.

Penalty on tenants delivering false accounts on the value of the premises.

hereby directed to be charged as aforesaid, computed on the annual value of the premises held under such demise, estimated according to this act; and the said inspectors and surveyors are hereby required to surcharge the same, and the commissioners are hereby required to make an assessment accordingly.

All properties to be assessed if lands be become unoccupied; distress may be taken afterwards.

By s. 83. The said several duties shall be assessed on all lands tenements and hereditaments, whether occupied at the time of assessment or not; and so far as respects the duties chargeable under schedule (A.) in case any lands charged to the said duties in any part of *Great Britain* shall be unoccupied, and no distress can be found on the same at the time such duties shall be payable, then and in such case it shall be lawful for the collectors of the parish or place where the said lands are situate for the time being, at any time a ter to enter upon the said lands when there shall be any distresses thereupon to be found, and the distress and distresses to seize and sell, under the like powers as they might have distrained on the same lands if in the occupation of such persons at the time the duties became due; provided always, that the said duties, or either of them, shall not be levied on any houses which shall have been or shall become unoccupied for such year, or portion of the year, as the same shall be unoccupied, but the assessment thereupon for such year, or portion of the year as aforesaid, shall, upon appeal, be discharged or diminished by the commissioners, on due proof of the time in which such house has remained unoccupied.

Assessments on houses unoccupied to be discharged.

Mode of levying the duties charged on tythes.

By s. 84. Where by any assessment the duties hereby granted shall be charged on tythes or teinds, and the same shall not be paid within the respective times limited by this act, it shall be lawful for the collector and officer to distrain upon such tythes or teinds, or any other goods or chattels of the owner of such tythes or teinds, or any other goods or chattels of the owner of such tythes or teinds, wherever the same can be found, and to seize, take, and sell so much thereof as shall be sufficient for the levying the said assessment, under and subject to the powers granted by the said recited acts respectively in other cases.

Mode of levying the duties on compositions for tythes, manors, or royalties, markets, fairs, tolls, fisheries, &c.

By s. 85. When any assessment shall be charged on any composition for tythes or teinds, or any rent or payment in lieu of tythes or teinds, the occupier of the lands and premises charged with such compositions rents or payments, shall be answerable for the duties so charged, and may deduct the same out of the next payment on account thereof; and where any assessment shall be charged on the profits of manors or of royalties, or of markets or fairs or on tolls fisheries or other annual or casual profits not distrainable, the owner or occupier, or receiver or receivers of the profits thereof, shall be answerable

answerable for the duties charged thereon, and may retain and deduct the same out of such profits; and in every such case the collector shall distrain upon such persons respectively, by any of the ways and means prescribed by the said recited acts respectively.

ix. (8.)—*Of assessors making estimates.*

By s. 86. The respective assessors acting in the execution of this act shall make their certificates of valuation or estimates on all lands tenements and hereditaments, or beritages, within the limits of those places for which they are to act, and shall set down the full annual value of all such lands and premises estimated in each particular case, according to the directions of this act, together with the names and surnames of the occupiers and proprietors thereof, and shall at the same time deliver to the said commissioners all returns which shall have been made to them, as well of such annual value, as of any deduction claimed to be made therefrom, such returns being first progressively numbered.

How assessors are to make their estimates.

s. 87. Whenever the assessors for any parish, ward, or place, shall not be able to make their estimates according to this act, or shall be obstructed therein, it shall be lawful for them to apply to any two or more of the commissioners acting in the execution of this act for the district where such assessors shall be appointed, or to any surveyor or inspector of the said duties, who shall severally instruct such assessors in making their estimates, and assist them in the execution of this act, according to the powers and authorities vested in them respectively by this act.

Assessors to apply to commissioners and surveyors for instructions.

s. 88. The assessors to be appointed for the aforesaid duties, shall at the time of bringing in their certificates of valuations or estimates, if required so to do by any surveyor or inspector of the said duties, or by any two or more of the respective commissioners, give notice to the overseers of the poor of the parish or place where they shall act, to cause to be produced to the commissioners for executing this act in relation to the said duties, the books, or a true copy thereof, in which shall have been entered the rates made for the relief of the poor of such parish or place, and also a true copy of the last rate made for the relief of the poor of such parish or place, who shall without fail deliver the same to the said inspector or surveyor of that district for the use of the said commissioners, and the said assessors shall declare in writing, signed by them whether the said rates are made on the full value of the properties therein, or in any and what proportionate part thereof, to the best of their knowledge and belief; and the said commissioners shall, in case the said surveyor or inspector shall alledge and shew to the satisfaction of the said commissioners that the said estimates or any of them have not been made ac-

Assessors to verify their estimates before the commissioners. They and the overseers may be examined before the commissioners to whom copies of rates are to be produced, and who may rectify the assessments if not duly made.

conform to the directions of this act, examine the said assessors and also the overseers of the poor for the same parish or place, or any of them, being duly summoned for that purpose, on their oaths or solemn affirmation, touching the proportions between the said rates and the value of the properties charged therein, and whether the properties, or any and which of them, have been valued therein at the amount, or at any and what proportion of the annual value thereof respectively, and what ought to be the just proportion between the rates on the different properties therein charged, if the amount of the values thereof, and the same proportion between the rates, had been observed throughout the rate, and also what property shall have been omitted to be rated, and which of the properties in the parish or place shall be entitled to be assessed on the profits or on an average of the profits according to this act; and the said inspectors and surveyors shall carefully examine the estimates made by the same assessors with the last rate made for the relief of the poor, in order that they may the better ascertain whether the said estimates have been made on all the properties situate in each parish, and according to the directions prescribed by this act, and from the result of the said inquiries may rectify the same estimates in any particulars which in their judgment may be requisite, before the commissioners make an assessment thereon, as herein is directed; and in so doing may pursue, if they think fit, the rules in number XI. of this act before mentioned, relating to the said rates for relief of the poor.

ix. (9.)—*Of commissioners estimates.*

Commissioners and others may call for any parish books to be produced under penalty.

By s. 89. The said commissioners, or any two or more of them, and the assessors, surveyors, and inspectors herein mentioned, or any one or more of them, or any person or persons authorized by them or any of them, shall have liberty at all reasonable times, to inspect and take copies of or extracts from any books kept by any parish officer, or other person, of or concerning the rates made for the relief of the poor, or any other public taxes, rates or assessments, in any place within the limits for which they shall be appointed; and if any person in whose custody or power any of the said books shall be, shall refuse or neglect to permit the said inspection or the copies or extracts to be made as aforesaid, or to attend the said commissioners with their books when required so to do, in pursuance of this act, in every such case every person who shall so refuse or neglect, shall for every such offence forfeit and pay not exceeding twenty pounds, nor less than five pounds.

Assessors and other officers to view and survey

And also by s. 91. In cases where the occupier or other person chargeable, shall upon due notice under this act, omit to produce an account in writing as aforesaid of the amount of

of the annual value of the property in his or their occupation, estimated according to the general rule in schedule (A.) or such other rules in the said schedule as are applicable to such property, or shall have delivered an account with which the commissioners for general purposes shall be dissatisfied, the several assessors, inspectors, and surveyors, authorized to act in the execution of this act, and every of them, having first obtained an order, in that behalf, signed by any two or more of the said commissioners, and taking to their assistance such persons of skill as shall be named in such order shall after two days notice to the occupier, have full power at all reasonable times of the day to view and examine all or any lands or other property chargeable, in order to make a survey thereof, or otherwise to ascertain the annual value at which the same ought to be charged by virtue of this act, and for so doing shall have liberty to enter upon any lands or grounds, whether inclosed or not, and to value the same, and to measure and survey the same if they cannot otherwise ascertain the annual value thereof.

lands by order of the commissioners.

By *f. 92.* Within a reasonable time after the respective surveyors and inspectors shall have had the examination of the estimates delivered by the assessors in any part of *Great Britain*, the said commissioners shall proceed to take the same into consideration, and in case the surveyor or inspector shall not have objected thereto, and the said commissioners shall be satisfied that the said estimates have been made truly and without fraud, so as to enable them to charge the several properties contained therein with the full duty which ought to be charged upon them respectively, the said commissioners shall cause to be computed and ascertained, the amount of the duty so chargeable at the respective rates prescribed by this act, according to the said respective schedules, and shall make assessments upon the respective occupiers of or other persons being in the receipt of the profits of such properties, of the several sums so computed at the respective rates before mentioned.

Commissioners to make assessments on estimates not objected to and made to their satisfaction.

By *f. 93.* In case the surveyor or inspector shall have objected to such estimates, and shall apply for a revision thereof, suggesting in writing to the commissioners any error, mistake, or fraud, in making such estimates, it shall be lawful for the said commissioners, according to the best of their judgment, to rectify such estimates, so that the duty to be computed as aforesaid thereon, may be fully charged, according to the intent of this act, and to make their assessments according to such rectified estimates, at the respective rates, and in manner before mentioned.

On objection taken, the commissioners to rectify estimates, and make assessments thereon.

ix. (10.)—*Of notice of assessment and appeal thereon.*

By *f. 94.* So soon as the assessments for any parish or place under schedules (A.) and (B.) shall be made, the commis-

Amount of assessments to be notified.

sioners shall cause notice thereof, and of the day for hearing appeals therefrom, to be given in such manner as they shall judge expedient; which notice may be given either by affixing a copy of such assessment on the church door, or any other public place in the parish, together with a note of the day of appeal, or by delivering such copy to the assessors of such place with such public notice to be affixed as aforesaid of the day of appeal, or by delivering to each party charged the amount of his assessment together with a note of the day of appeal, and such notices shall be made and given at least fourteen days before the day of appeal so fixed.

The value of lands may be ascertained by actual valuation, by order of the commissioners.

And by *s. 95.* If upon appeal any dispute shall arise touching the annual value of any messuages lands tenements hereditaments or heritages, and the commissioners shall deem it necessary that a valuation thereof should be taken and made by any person of skill, it shall be lawful for them to direct the appellant to cause such valuation to be made by any person to be named by the said commissioners, the costs and charges whereof shall abide the final determination of the said commissioners, and it shall be lawful for them to make an assessment according to such valuation, and to require the same to be verified on the oath or affirmation of the person making the same; but in case the appellant shall not proceed with effect to cause such valuation to be so made, the said commissioners shall proceed to an assessment, according to the best of their judgment, on such messuages &c.: provided always, that it shall be competent to the said commissioners, in every such case where the valuation so made shall exceed the value put upon the same messuages &c. by the appellant, to direct the costs and charges attending the same to be paid by him; but if they shall be of opinion that such costs and charges have not been incurred through any default of the said appellant, they shall direct the same to be paid by the collector of the parish or place, who on the certificate of any two or more commissioners present at the time of the determination shall pay the same, and the sums so paid shall be allowed to such collector in his accounts with the receiver general on delivering to him or his deputy such certificate together with the receipt and voucher for such payment.

In case of dispute, a valuation of all the land in the parish may be taken.

And by *s. 96* If the dispute shall arise touching the valuation or relative value of several properties or all the properties throughout any parish or place, it shall be lawful for the commissioners to direct a survey and valuation to be taken of all the messuages, &c. there, and to give such directions respecting the payment of the costs and charges attending the same either by the several occupiers thereof in proportion to their respective interests, or by the collector out of the monies in his hands of the duties granted by this act, or in such proportion

portion by the respective occupiers and the said collector as shall appear to the said commissioners to be just.

By s. 97. If on such appeal the occupier of any such premises held under any demise at rack rent shall produce and shew to the said commissioners the lease tack or agreement in writing, or shall prove by any lawful evidence, to be produced on the part of such occupier in case there shall be no such lease or agreement in writing, the annual amount of the rent at which such premises are let, it shall be lawful for the said commissioners, in case such rent hath been fixed by agreement commencing within the period of seven years mentioned in the said general rule, and they shall be satisfied that such lease or agreement doth express the full consideration for the demise under which such occupier shall hold the same, or that the rent bona fide paid by such occupier for the same hath been duly shewn to them in evidence, and that such demise is made wholly on consideration of such reserved rent, without any intention to conceal or diminish the annual value of such premises, or other fraudulent intention whatever, to abate and deduct from such assessment so much as in their judgement will reduce the rate to a just rate on such rent.

In case of appeal, occupier shewing lease or if no lease proving his annual rent, commissioners may reduce the rate.

By s. 98. If it shall appear to the said commissioners that any lands or tenements shall have been assessed at an annual value less than the actual rent at which the same shall be let, or if not at less than the rent at which the same might be let, it shall be lawful for the said commissioners to enlarge and increase such assessment to such sum as a like rate on such rent would amount unto, as well with respect to the rate on the property as the rate on the occupation of such lands and tenements.

Where lands are assessed at less than the value, the assessment may be recited.

ix. (11.)—Of vexatious surcharges.

By s. 99. If any inspector or surveyor shall wilfully make any false and vexatious surcharge, or wilfully deliver or cause to be delivered to the commissioners for executing this act any false and vexatious certificate of charge, every such inspector or surveyor shall forfeit to the party grieved not exceeding fifty pounds, to be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at *Westminster*, for offences committed in *England*, and in the court of great sessions for offences committed in *Wales*, with full costs of suit: provided always, that nothing herein before contained, nor any suit by the party aggrieved, in pursuance of this act, shall be construed to affect impeach or defeat any action or information brought or to be brought against any surveyor or inspector in pursuance of the said recited acts respectively for any corrupt vexatious or illegal practices in the execution of his office; and it shall be lawful for the judge before whom such inspector or surveyor shall have been convicted of such offence against this act by indorsement on

Penalty on inspectors and surveyors making vexatious surcharges.

the postea, or for the court before whom such person shall be convicted, to mitigate the penalty at his or their discretion.

ix. (12.)—Of the duration of assessments under schedule (A.) and (B.)

First assessment under schedules A. and B. to remain in force for two years.

By s. 100. The first assessment to be made after the fifth of April 1806, of the said duties which are chargeable under either of the schedules marked (A.) or (B.) of this act, shall remain in force for the space of two years, if this act shall so long continue, without requiring returns from the parties charged therein for the second year of such assessment, and without altering the names of the parties charged, notwithstanding a change in the occupation or interest of or in the premises charged in such assessment may have happened; and the like sums shall be levied thereon for the second year as shall or ought to have been levied thereon for the first year, and the assessment shall be subject to the like exemptions and allowances for the second year as were granted for the first year; and the amount charged in such assessment shall be paid by four instalments in each year, on the days and times herein specified for payment of such instalments, subject nevertheless to be varied and altered in the following cases: videlicet,

Un-its under-rated;

First.—If any surveyor or inspector shall find that any person hath been under-rated in such assessment, or omitted to be charged therein for the first year, or hath obtained an exemption or allowance for the first year which ought not to be allowed for the second year, it shall be lawful for such surveyor or inspector to surcharge such assessment for the second year in like manner in all respects as he is hereby authorized to surcharge the assessment under the like circumstances for the first year of assessment, provided that such surcharges shall be always made in the single duty, and no increase shall be made thereon above the rate of duty hereby granted, unless the commissioners shall be of opinion that the assessment for the first year was in the particular surcharge occasioned through the wilful default or neglect of the party charged in the assessment:

or fresh person becoming chargeable;

Second.—If any person not chargeable in the first year of assessment shall become chargeable in the second year of assessment, it shall be lawful for the assessor, surveyor or inspector, to require the like returns, and to proceed to the assessment of such person in like manner for the second year, as if the whole assessment of the parish, place or district had commenced in that year:

or upon appeal;

Third.—If any person shall find himself aggrieved by the continuance of such assessment for the second year, by occasion of his being over-rated therein, he may appeal from the same in that year, on delivering ten days notice of such his intention to the surveyor or inspector, and a

true

true and perfect schedule of the annual value of the property charged on him for that year, in like manner as he might have appealed against the same assessment under the like circumstances for the first year, and no payment on such assessment for the first year shall be construed to preclude such appeal; provided, that for any vexatious appeal without reasonable cause, it shall be lawful for the commissioners to award reasonable costs for the attendance of the assessor surveyor or inspector to be added to the assessment and levied therewith for the use of such assessor surveyor or inspector, and which shall be paid to such assessor surveyor or inspector in like manner as any other payments under this act may be made to them:

Fourth.—It shall be lawful for the respective collectors to levy and gather the assessment for the second year on the occupiers for the time being by the same rate or book which shall have been delivered to them for the first year, unless the said commissioners for executing this act shall revoke the appointment of the said collectors, or shall alter or vary the assessments, and deliver to them a new rate or book for the second year:

To be levied on the occupier.

Fifth.—The duplicates of the commissioners shall be made for each year and delivered to the receiver general and at the tax office; containing the like particulars for the second year as is herein required for the year of assessment, varying only the amounts therein to be specified, if the case shall require the same; and all the powers, &c. in this act for rectifying any assessment, or increasing or diminishing the duty according to circumstances, or for levying the same, shall be in force for the second year, in respect of the sums to be levied in that year, and shall be applied in that year as fully and effectually as if the assessment had been made for that year under the directions and regulations of this act.

Commissioners duplicates to be made for each year.

By *f. 101.* at the commencement of the third year, and so on at the commencement of the fifth and of every alternate year thereafter, during the continuance of this act, a like assessment shall be made in each parish or place, pursuing therein the directions of this act; which assessment so made shall respectively continue in force for two years under and subject to the provisions before contained, for the first assessment to be made under this act.

Like assessments to be made at the commencement of the third and alternate years.

By *f. 102.* no instalment of the duties assessed in such assessment shall be levied or collected for the second year of such assessment, which shall not be due and payable within the meaning of this act, before the period limited for the continuance of this act, but the assessment on which such instalments would have accrued, shall from thenceforth cease and determine.

That no instalment shall be levied for the second year which shall not have become due before the expiration of the act.

(x.)—Schedule (C.) Duties on annuities in the public funds; and herein of the mode of collecting.

By the 46 G. 3. c. 65. s. 103. The duties hereby granted including the duties contained in the schedule marked (C.) as herein recited, and the additional duties to be charged on the amount thereof, shall be assessed and charged in one sum, under the following rules, which rules shall be deemed and construed a part of this act, and to refer to the said last mentioned duty, as if the same had been inserted under a special enactment.

Rules for assessing and charging the duties under schedule (C.)

By whom to be paid.

The said last mentioned duty shall be paid by the persons and corporations respectively intrusted with the payment of the annuities dividends and shares therein charged, on behalf of the persons, corporations companies or societies entitled thereto, their executors administrators or assigns, and shall be assessed by the commissioners hereby authorized to be appointed for those purposes; and shall extend to all public annuities whatever payable in *Great Britain* out of any public revenue in *Great Britain* or elsewhere, and to all dividends and shares thereof which shall become payable after the fifth day of *April* 1806, except in the following cases of exemption from the said duties; viz.

To what stock the duty extends.

Stock of friendly societies exempted.

(1.)—The stock or dividends of any friendly society, established under or by virtue of an act, passed in the thirty-third year of the reign of his present majesty intituled, *an act for the encouragement and relief of friendly societies*; provided the property therein shall be duly claimed and proved by any agent or factor on the behalf of any such society, or by any member thereof, before the commissioners for special purposes appointed as aforesaid, or to be appointed by this act.

Stock of charitable institutions exempted.

(2.)—The stock or dividends of any corporation, fraternity, or society of persons, or of any trust established for charitable purposes only; or which according to the rules or regulations established by act of parliament, charter, decree, deed of trust or will shall be applicable by the said corporations, &c. or by any trustee or trustees to charitable purposes only, and in so far as the same shall be applied to charitable purposes only; or the stock or dividends in the names of any trustees applicable to the repairs of any cathedral, college, church or chapel and to no other purpose and in so far as the same shall be applied to such purposes, provided the application thereof to such purposes shall be duly proved before the commissioners for special purposes appointed as aforesaid, or to be appointed under

under this act, by any agent or factor on the behalf of any such corporation fraternity or society or trustee or trustees or by any of the members or trustees :

- (3.)—The stock or dividends which shall have been transferred to the commissioners appointed or to be appointed by virtue of an act, intituled, *An act for vesting certain sums in the commissioners, at the end of every quarter of a year, to be by them applied to the reduction of the national debt*: provided that the governor and company of the bank of *England* shall from time to time cause to be transmitted to the commissioners for special purposes appointed as aforesaid or to be appointed under this act, an account of the total amount of stock which shall have been transferred to the said commissioners.
- (4.)—The stock or dividends transferred to the accounts in the books of the bank of *England*, in the name or under the description of the lord high treasurer of *England*, or of the commissioners of his majesty's treasury in pursuance of any act or acts of parliament; provided that the governor and company of the bank of *England* shall from time to time cause to be transmitted to the said commissioners for special purposes, an account of the total amount of stock which shall have been transferred to the said respective accounts :
- (5.)—The annuities dividends and shares, *bona fide* belonging to any person not being a subject of his majesty; and not being resident in *Great Britain* or elsewhere within the dominions of his majesty, during such time as the same shall continue the property of such person, and such person shall not be resident in *Great Britain* or elsewhere within the dominions of his majesty as aforesaid; provided that such property shall be duly claimed and ascertained in the manner herein-after mentioned :
- (6.)—The stock or dividends belonging to his majesty in whatever name the same may stand in the books of the Bank of *England* and also the stocks or dividends of any accredited minister of any foreign state resident in *Great Britain*; provided the property thereof shall, if standing in the name or names of any trustee or trustees, be duly proved before the commissioners for special purposes by such trustee or any one of such trustees.
- And by s. 104. For the assessing and charging *Bank Stock*, &c. *East India Stock*, &c. *South Sea Stock*, and the profits attached thereto respectively, and also for the assessing and charging *Exchequer Annuities*, and the dividends and shares of all other annuities, payable out of the revenue of *Great Britain*, which are or shall be intrusted for payment to the companies of the Bank of *England* and *South Sea* respectively,

Not to extend to funds in the name of the commissioners of the national debt.

Not to extend to stock in the name of the treasury.

Not to extend to foreigners.

Not to extend to stock belonging to his majesty or to accredited ministers.

Companies, entrusted with the payment of annuities to deliver to the commissioners for assessing the same accounts of the amount thereof, who shall charge the same.

and also the dividends and shares of annuities payable out of the revenue of *Ireland*, which are or shall be intrusted for payment to the governor and company of the Bank of *England* as aforesaid; be it further enacted, that the respective companies corporations and persons having the distribution or payment of the said several annuities dividends and shares, shall from time to time as often as the payments thereon shall become due deliver to the respective commissioners, appointed for the purpose of assessing the duties thereon as aforesaid, faithful accounts in writing in books to be provided for that purpose of the several amounts of such annuities and profits attached to the same, which shall be paid to the said companies respectively, in respect of their corporate stock, and of such dividends and shares of annuities as shall be intrusted to them or any of them for payment to the persons corporations and companies entitled thereto, and the amount of duty chargeable thereon at the rate before directed, without deduction on any pretence whatever, except as herein is allowed, distinguishing therein the separate accounts of each person corporation and company, or persons or societies, entitled unto any part dividend or share of such annuities respectively, as the same shall stand in the books of the said respective companies, or at the exchequer, in such manner as that the part dividend and share of each person &c. of or to such annuities respectively, may be distinctly charged and assessed to the said duty; and the said respective commissioners shall from time to time make an assessment of the duty which shall appear to be chargeable on the accounts so delivered to the best of their judgement and belief, and shall from time to time deliver the said books of assessments (except as to Bank Stock) signed by any two or more of them respectively, to the said commissioners for special purposes appointed or to be appointed as aforesaid; and the said commissioners for special purposes shall forthwith cause three certificates on parchment to be made out, under their hands and seals or the hands and seals of any two or more of them, containing the total amounts of duty, and of the annuities dividends and shares, whereon the said duty shall have been charged, contained in each assessment, together with the proper title or description of the corporation company or persons, having the distribution or intrusted with the payment of such annuities dividends and shares respectively; and they shall transmit one of such certificates to the respective commissioners for making such assessments, and one other certificate to the office for taxes, for the use of the king's remembrancer in the exchequer, and the other thereof to the auditor appointed to pass the accounts of the said duty at the said receipt of exchequer,

And

And by *f. 105.* The respective corporations companies and persons entitled unto such annuities and profits attached thereto, or intrusted with the payment of the annuities dividends or shares of such public annuities as are herein-before described, shall, on notice of the amount of each assessment, from time to time to be made as aforesaid (which notices shall be given from time to time, as and when the annuities &c. shall become payable, and before payment thereof) set apart and retain the amount of duty so assessed for the purposes of this act; and every such setting apart and retaining of the said duties shall be deemed a payment thereof by and on the behalf of the persons corporations and companies entitled unto the said annuities dividends and shares respectively; and all and every the persons &c. entitled to such annuities or profits attached thereto, or to any part thereof, or to such dividends or shares of annuities as aforesaid, are hereby required on receipt of the residue of the said annuities &c. over and above the duty so assessed, to allow such payments at the rate before prescribed in respect of the said assessments; and the corporations and persons having the distribution of such annuities or entrusted with such payments, shall be and are hereby acquitted and discharged of so much money as if the same had actually been paid unto the person or persons to whom such annuities &c. did or might belong, or were by law payable.

Companies to set apart and retain sums assessed.

By *f. 106.* All monies so set apart at the Bank of *England*, *East India* or *South Sea* houses as before directed, shall be paid from time to time into the account to be kept at the Bank of *England* with the commissioners of the treasury, as herein-after directed, accompanied with a certificate of the amount of the assessment under which the same shall be so paid, under the hands of two or more of the commissioners making such assessment; and the said governor and company shall also cause the amount of such assessment as shall from time to time be charged on the trading profits of the said company, to be paid into the said account, together with or distinct from any other monies before directed to be paid into the said account by the said governor and company, as they shall choose; and the monies so paid into the said account at the Bank of *England* shall be liable to the payment of all sums of money herein-after directed to be paid to any persons corporations companies or societies, on account of any exemptions from the said duty claimed and allowed before and by the said commissioners for special purposes as herein directed; and the said governor and company of the Bank of *England* shall be allowed to retain in their hands from time to time so much of the said monies as shall have been, or shall from time to time be certified to them by the said commissioners for special purposes to be necessary to satisfy such exemptions,

Monies set apart to be paid into the Bank.

exemptions, according to the best estimate they shall be enabled from time to time to make of the amount thereof, and the residue of the said monies so paid to the said account shall be paid from time to time into the said receipt of exchequer, to the account of duties charged by this act.

How small dividends shall be charged.

But by *f. 107.* In respect of any of the annuities dividends and shares of annuities, chargeable under schedule (C.) by the respective commissioners for those purposes, it shall not be required to make an assessment by them for any amount or payment, where the half-yearly payment on such annuities dividends or shares would or shall not amount to twenty shillings; but that the annuities dividends and shares, whereof the half-yearly payment shall not amount to twenty shillings, shall be assessed accounted for and charged under the third rule of schedule (D.) by which profits of an uncertain annual value are directed to be charged: provided also, that no person shall be required to return any statement of the profits of such annuities dividends or shares, as shall be assessed as aforesaid, or be liable to any penalty for not returning the same; but all such dividends and shares, whereof the half-yearly payment shall not amount to twenty shillings, and which shall be paid without assessment, shall be duly returned in the manner before directed, under the penalty before contained.

Persons entrusted with the payment of Irish or Foreign annuities, shall deliver accounts thereof.

By *f. 108.* Every person (other than the governor and company of the Bank of *England* intrusted with the payment of annuities, or any dividends or shares of annuities payable out of the public revenue of *Ireland*, or of any colony or settlement belonging to the crown of the united kingdom, to any person or persons corporations or companies in *Great Britain*, or acting therein as agent or in any other character before described, shall, without further notice or demand thereof, deliver or cause to be delivered into the office for taxes at *Somerſet House Middleſex*, an account in writing containing their names and residence, and a description of the annuities dividends and shares intrusted to them for payment, within one calendar month after the same shall have been required by public notice in the *London Gazette*; and also shall, on demand by the inspector authorized for that purpose by any three or more of the commissioners for the affairs of taxes, cause to be delivered to him for the use of the said special commissioners, true and perfect accounts of the amount of annuities dividends and shares payable by them respectively, and the special commissioners aforesaid shall make an assessment thereon under schedule (C.) at the rate before prescribed, subject to diminution on occasion of any exemptions to be allowed by the said special commissioners, giving notice of the amount thereof to the respective persons entrusted with such last-mentioned payments, who shall respectively

Special commissioners to make assessment thereon.

pay the duty on the said annuities dividends and shares at the rate before prescribed, on behalf of the persons corporations and companies entitled unto the same, out of the monies in their hands; and they shall be acquitted of such payments in like manner, and the like proceedings in all respects shall be had under the said special commissioners as is before directed in respect of annuities payable out of the public revenue of *Great Britain*: provided always, that the persons entrusted with such payments shall from time to time pay the duty so assessed thereon into the Bank of *England*, to the account to be kept at the Bank of *England* as aforesaid with the commissioners of the treasury, and shall be answerable for such payment; and which duty so assessed shall, in default of such payment, be recoverable against the persons entrusted with such payments, as other duties charged on the parties may be recovered against them; and if any person entrusted with the payment of any such last-mentioned annuities, or any dividends or shares thereof, in the manner herein-mentioned or acting therein as agent, or in any other character herein described, shall neglect or refuse to deliver an account of his name and residence in the manner herein directed, or after demand shall neglect or refuse to deliver an account as aforesaid of the amount of such annuities dividends and shares as he is entrusted with the payment of, or in the payment of which he shall act as agent, or in any other character herein described, he shall forfeit the sum of one hundred pounds over and above the duty chargeable on such annuities shares or dividends.

By s. 109. Any interest payable out of the public revenue on securities which shall be issued at the exchequer, navy, or other public office, after the tenth day of *October* next after the passing of this act, by whatever names such securities shall be called, shall be charged to the said duties, under the rules contained in Schedule (C.) by the commissioners for assessing the profits of offices in the said exchequer, navy, or other office at which the same shall be made payable, which said commissioners respectively shall execute this act, in relation to the profits arising from such securities, in like manner as commissioners for the general purposes of this act are empowered to assess the profits arising from annuities payable out of the public revenue in other cases, and the said commissioners for offices respectively shall appoint assessors and collectors of the said duties arising from such public securities from and amongst the officers entrusted with the payment or discharge of such securities, who shall respectively at the time of payment or discharge thereof, compute the duty thereon, and after such computation shall enter the same in a certificate of assessment, and certify the same to the

Securities issued at the exchequer, navy, or other public office, to be charged under schedule (C.)

proper officer appointed for the payment or discharge of such security, which officer is empowered to stop and detain the said duty, and to pay the same into his majesty's exchequer, in discharge of such assessment; and every person receiving or purchasing any such security in circulation, with current interest thereon, shall be entitled, and is hereby empowered to deduct from such interest the proportion of duty which shall become chargeable thereon, in like manner and under the like powers and penalties as may be done in other cases of payment of interest, and as if such current interest was then due and charged to the said duty; and the like computation and assessment shall be made whenever a new security shall be issued in discharge of any former security with interest, or in discharge of interest due on any former security, and and the person receiving such new security in exchange for any former security with interest, or for such interest, shall pay to the proper officer at the time of receiving such new security the full duty computed on the interest payable on the said former security.

Claiming exemptions.

Claims of exemption to be made to the special commissioners, according to following rules.

By s. 110. All claims to the exemptions from the said duties or annuities payable out of the revenue of *Great Britain*, shall be made to the special commissioners appointed or to be appointed as aforesaid, according to the following rules; *videlicet*,

First.—Every claim shall be made in writing, in such form as the said commissioners for special purposes shall direct, and the said commissioners shall require the same to be verified on the affidavit of such person or persons as they shall think necessary, such affidavit to be made as before directed in all cases cognizable before the said commissioners, and they shall have authority to demand and require, from such person or persons as they shall think proper to be examined touching such claim, true answers upon oath, to be made as before directed, to all such questions as they shall think material in such claim:

Second.—Whenever the said commissioners for special purposes, or any two or more of them, shall have allowed any such exemption, they shall certify the same to the governor and company of the bank of *England*, and the certificates of the said commissioners for special purposes shall be an authority to the said governor and company of the bank of *England*, to pay the amount of the sums so certified to the respective claimants, or to the attorneys and agents who shall have been authorized to receive the said annuities dividends and shares on behalf of the said claimants:

Third.

Third.—Whenever the stock for which any exemptions as aforesaid shall have been obtained, or any part thereof shall be transferred or assigned to any person corporation company or society whatever, the said exemptions shall cease: provided always, that where the whole of such stock or interest therein shall not be so transferred or assigned, it shall be lawful for the said commissioners, on such proof as is herein-before required on like application for that purpose, to grant a like certificate for the purpose of exempting the remainder of such stock, and so from time to time, so long as any part of the said stock shall continue to be entitled to the said exemption:

Fourth.—The said commissioners for special purposes shall from time to time cause certificates to be made of the amount of all exemptions so allowed by them, and to be delivered to the king's remembrancer and the said auditor in discharge of the certificates of assessment before directed, and all such certificates shall be admitted at the said receipt of exchequer in discharge of such assessments, and shall be an acquittal to the governor and company of the bank of *England* for all payments made under the authority of such certificates.

By §. 111. If any person shall, with intention to defraud his majesty, his heirs or successors, fraudulently make any claim to be exempted either in his own behalf, or any other, from the duty charged on such annuities, or any dividends or shares thereof, contrary to this act, he shall forfeit to his majesty &c. five hundred pounds, and if such claims shall be made by any person in his own behalf, he shall moreover be liable to be assessed in treble the duty to be charged on the said annuities and shares at the rate before prescribed.

Punishing persons pretending that stock is the property of foreigners.

(xi.)—*Schedule (D.)*

By 46 G. 3. c. 65. §. 112. The duty hereby granted, including the duty contained in the schedule marked (D.) as herein recited, and the said additional duties, shall be assessed and charged in one sum under the following rules, which rules shall be deemed and construed a part of this act, and to refer to the said last-mentioned duty, as if the same had been inserted under a special enactment.

Recited and additional duties in schedule (D.) and rules, deemed part of the act.

The said last-mentioned duty shall extend to every description of property or profits, which shall not be contained in either of the said schedules (A.) (B.) or (C.) and to every description of employment of profit not contained in schedule (E.) and not specially exempted from the said

To what the duty extends, and by whom to be paid.

respective duties, and shall be charged annually on and paid by the persons bodies politic or corporate fraternities fellowships companies or societies whether corporate or not corporate; receiving or entitled unto the same, their executors administrators successors and assigns respectively.

Rules for ascertaining the said last-mentioned duties in the particular cases herein mentioned.

Rules for ascertaining the duties.

1st CASE.—Duties to be charged in respect of any trade manufacture adventure or concern in the nature of trade not contained in any other schedule of this act.

Rules.

Computation of duty on trade.

1.—The duty to be charged in respect thereof shall be computed on a sum not less than the full amount of the balance of the profits or gains of such trade manufacture adventure or concern upon a fair and just average of three years, ending on such day of the year immediately preceding the year of assessment on which the accounts of the said trade &c. shall have been usually made up, or on the fifth day of April preceding the year of assessment, and shall be assessed charged and paid without other deduction than is hereinafter allowed: Provided always, that in cases where the trade &c. shall have commenced within the said period of three years the computation may be for one year on the average of the balance of the profits and gains for the period of first setting up the same: Provided also, that in cases where the trade &c. shall have been set up and commenced within the year of assessment, the computation may be made according to the rule in the sixth case of this schedule.

To whom the duty extends.

2.—The said duty shall extend to all persons bodies politic or corporate fraternities fellowships companies or societies, and to every art mystery adventure or concern carried on by them respectively in G. B. or elsewhere as aforesaid; except always such adventures or concerns on or about lands tenements hereditaments or heritages, as are mentioned in schedule (A.) and directed to be therein charged.

Deductions not to be allowed.

3.—In estimating the balance of profits and gains chargeable under schedule (D.) no sum shall be set against or deducted from such profits or gains, on account of any sums expended for repairs of premises occupied for the purpose of such trade &c. nor for any sum expended by them for the supply or repairs or alterations of any implements or utensils or articles employed for the purpose of such trade &c. beyond the sum usually expended for such purposes according to an average of three years preceding the year of assessment;

nor on account of loss not connected with or arising out of such trade &c. ; nor on account of any capital withdrawn therefrom ; nor for any sums employed or intended to be employed as capital in such trade &c. ; nor for any capital employed in improvement of premises occupied for the purposes of such trade &c. nor on account or under pretence of any interest which might have been made on such sums if laid out at interest ; nor for any debts, except such debts, or such parts thereof as shall be proved to the satisfaction of the commissioners respectively, to be irrecoverable ; nor for any average loss beyond the actual amount of loss after adjustment ; nor for any sum recoverable under an insurance or contract of indemnity.

- 4.—In estimating the amount of the profits and gains arising as aforesaid, no deduction shall be made on account of any annual interest, or any annuity or other annual payment payable out of such profits or gains, except the interest of debts due to foreigners not resident in *Great Britain* or in any other of his majesty's dominions.

No deduction for annual interest.

II^d CASE.—The duty to be charged in respect of professions employments or vocations, not contained in any other schedule of this act.

Rules.

- 1.—The said duty on employments shall be construed to extend to every employment by retainer, in any character whatever, whether such retainer shall be annual, or for a longer or shorter period ; and to all profits and earnings of whatever value, subject only to such exemptions and allowances as are herein-after granted :
- 2.—The duty shall be computed at a sum not less than the full amount of the balance of the profits gains and emoluments of such professions &c. (after making such deductions, and no other, as by this act are allowed) within the preceding year ; ending as in the first case, to be paid on the actual amount of such profits or gains, without any deduction, subject to the like provisions as are made in the first case in respect of the period of average, in the cases of setting up and commencing such profession &c. within the period herein limited :
- 3.—The third and fourth rules in the first case, shall also extend to the profits arising under the second case, as far as they are applicable.

To what the duty shall extend.

Computation of duty on profession.

Certain rules of the first case to extend to the second.

Rules applying to both the preceding cases.

xi. 2. (1st.)—*How the balance of profits shall be estimated.*

In estimating the balance of the profits or gains to be charged according to either of the first or second cases, no sum shall be set against or deducted from such profits or

Deductions not to be allowed in first and second cases.

gains for any expences whatever, not being money wholly and exclusively laid out and expended for the purposes of such trade &c. or of such profession &c.; nor for any expences of maintenance of the parties, their families or establishments; nor for any rent or value of any dwelling-house or domestic offices, or any part of such dwelling-house or domestic offices, except such part thereof as may be used for the purposes of such trade or concern, not exceeding the proportion of the said rent or value herein-after mentioned; nor for any sum expended in any other domestic or private purposes, distinct from the purposes of such trade &c. or of such profession &c. :

xi. b. (2d.) *How, where one person is concerned.*

Duty on trade carried on by one person how to be charged.

The computation of the duty to be charged in respect of any trade &c. or any profession, whether carried on by any person singly or by any one or more persons jointly, or by any corporation company fraternity or society shall be made exclusive of the profits or gains arising from lands tenements or hereditaments occupied for the purpose of such profession trade &c. :

xi. c. (3d.) *How, where two or more.*

Duty on trade carried on by two or more persons how to be charged.

The computation of duty arising in respect of any trade &c. or any profession carried on by two or more persons jointly, shall be made jointly and in one sum, and distinctly from any other duty chargeable on the same persons, or either of them; and the return of the partner who shall be first named in the deed instrument or other agreement of copartnership (or where there shall be no such deed &c. then of the partner who shall be named singly, or with precedence to the other partners, in the usual stile of such copartnership, or where such precedent partner shall not be an acting partner, then of the precedent acting partner) and who shall be resident in G. B. (and who is hereby required under the penalty herein contained for default in making any return required by this act to make such return on behalf of himself and the other partners; whose names and residences shall also be declared in such return) shall be sufficient authority to charge such partners jointly: provided always, that where no such partner shall be resident in G. B., then the statement shall be prepared and delivered by their agent manager or factor resident in G. B., jointly for such partners; and such joint assessments shall be made in the partnership-style or description; and no separate statement shall be allowed in any case of partnership, except for the purposes of the partners separately claiming an exemption or allowance as herein directed or of accounting for separate concerns; provided that if any partners being entitled to be charged

at

at different rates, or to any exemption or allowance, shall declare the proportions of their respective shares in such profession or concern, in order to a separate assessment for the above purpose, it shall be lawful to charge them separately and respectively at the rate which such proportions shall be chargeable with, by virtue of this act; but if no such claim be made, then such assessment shall be made jointly, according to the amount of the profits and gains of such partnership: provided also, that any joint partner in such profession or concern, which shall have been already returned by such precedent partner, as aforesaid, may return his name and place of abode, and that he is such partner, without returning the amount of duty payable in respect thereof, unless the commissioners respectively shall require further returns from every such partner, and the like information and evidence as they are hereby entitled to require from the partner making the return of duty:

xi. d. (4th.) How where partners are changed.

If amongst any persons engaged in any trade &c. or in any profession in partnership together, any change shall take place in any such partnership, either by death or dissolution of partnership as to all or any of the partners, or by admitting any other partner therein before the time of making the assessment, or within the period for which the assessment ought to be made under this act; or if any person shall have succeeded to any trade manufacture adventure or concern, or any profession within such respective periods as aforesaid, it shall be lawful for the said respective commissioners, and they and also the party interested, and every officer acting in the execution of this act, shall compute and ascertain the duty payable in respect of such partnership, or any of such partners, or any person succeeding to such profession &c. venture or concern, according to the profits and gains of such business derived during the respective periods herein mentioned, notwithstanding such change therein or succession to such business as aforesaid, unless such partners or partner, or such person succeeding to such business as aforesaid, shall prove, to the satisfaction of the said respective commissioners, that the profits and gains of such business have fallen short or will fall short from some specifick cause, to be alledged to them, since such change or succession took place, or by reason thereof:

In case of change of partners the duty to be charged on the profits antecedent to the change.

xi. c. (5th.) Where parties are to be charged.

Every statement of profits to be charged under this schedule, shall include every source so chargeable on the person delivering the same on his own account, or on account of any other person, and every person shall be

Duties to be charged in one division, except where the said person is en-

engaged in different concerns in trade in divers places.

chargeable in respect of the whole of such duties in one and the same division, and by the same commissioners (except in cases where the same person shall be engaged in different partnerships, or the same person shall be engaged in different concerns relating to trade or manufacture in divers places; in each of which cases a separate assessment shall be made in respect of each concern at the place where such concern is singly carried on ought to be charged as herein directed), and every such statement on the behalf of any other person or persons, for which such person or persons shall be chargeable as acting in any of the characters before described, or on the behalf of any corporation fellowship fraternity company or society, shall include every source chargeable as last aforesaid, and shall be delivered in that division where such person corporations &c. would be chargeable, if acting on his or their own behalf.

Profits arising from the London Docks and West India Docks to be assessed by the commissioners for London.

And by §. 10. The profits arising from the docks called *The London Docks* and *West India Docks* respectively, situate in the county of *Middlesex*, shall be assessed by the commissioners acting for the city of *London* under the said act for duties on profits of property &c. so long as the general accounts of the said respective docks shall be made up within the said city.

Foreign profits where to be assessed.

By §. 9. Whenever the produce of or the profits or gains arising from foreign possessions or foreign securities, or from possessions or securities in any of his majesty's dominions out of *Great Britain*, shall have been partly imported into the port of *London* and partly into any of the out-ports of *Bristol*, *Liverpool* or *Glasgow*, mentioned in the said last-mentioned act, or shall have been received by any person or persons partly in the city of *London* and partly in any of the said out-ports within the period of making up the account on which the duty is chargeable by the said last-mentioned act, according to the rules therein contained, the whole of the duty chargeable under the said act in respect of such produce, or such profits or gains so imported or received, shall be assessed and charged by the commissioners acting for the said city of *London*, and not elsewhere, and as if the whole of the said produce, or the said profits or gains arising within the said period, had been imported into or received in *London*; and whenever such produce, or such profits or gains arising as aforesaid, shall have been within such period wholly imported into or received at the outports of *Bristol*, *Liverpool* or *Glasgow*, and different parts thereof, shall have been imported into or received at two or more of such outports, the duty chargeable thereon shall be assessed and charged at one of such places only, and in one account, and at such of the said places at which the major part in value of such produce, or profits or gains, shall have been so imported or received; provided that the statements of such produce, profits.

profits, or gains, shall be delivered to the commissioners acting for each place at which any part of the said produce, or profits or gains, shall have been so imported or received, and transmitted by the respective commissioners to the office for taxes in *Somerset House*; and the commissioners there shall cause all such statements to be sent to the commissioners acting for the place where the duty thereon shall appear, by such statements, to be chargeable according to this act, who shall accordingly assess the same in one sum.

III^d CASE.—The duty to be charged in respect of profits of an uncertain annual value not charged in schedule (A.).

(1).—The duty to be charged in respect thereof shall be computed at a sum not less than the full amount of the profits or gains arising therefrom within the preceding year, ending as in the first case, to be paid on the actual amount of such profits or gains, without any deduction :

Computation of duty on uncertain profits.

(2).—The profits on all securities bearing interest, payable out of the public revenue (except securities before directed to be charged under the rules of schedule C.) and on all discounts, and on all interest of money, not being annual interest payable or paid by any persons whatever, shall be charged according to the preceding rule in this case.

On interest not being annual.

(3).—Whenever the commissioners shall, on examination, find that any lands occupied by a dealer in cattle, or by a dealer in or seller of milk (which lands shall have been estimated and charged on the rent or annual value,) are not sufficient for the keep and sustenance of the cattle brought on the said lands, so that the rent or annual value of the said lands cannot afford a just estimate of the profits of such dealer, it shall be lawful for the said commissioners to require a return of such profits and to charge such further sum thereon, as, together with the charge in respect of the occupation of the said lands, shall make up the full sum wherewith such trader ought to be charged in respect of the like amount of profits charged according to the first rule in this case.

On dealers in cattle and sellers of milk.

4th. *Securities in Ireland.*

IVth CASE.—The duty to be charged in respect of interest arising from securities in *Ireland*, or in the *British* plantations in *America*, or in any other of his majesty's dominions out of *G. B.* and foreign securities, except such annuities dividends and shares payable out of the revenue of *Ireland*, as are directed to be charged under schedule (C.) of this act.

Computation of duty from securities in Ireland

The duty to be charged in respect thereof shall be computed on a sum not less than the whole and just sums (so far as

Taxes (property). [SECT. III. (xi. 4th.).

the same can be computed) which have been or will be received in *G. B.* in the current year, without any deduction or abatement.

5th. Possessions in Ireland.

Computation of duty from possessions in Ireland.

Vth CASE.—The duty to be charged in respect of possessions in *Ireland* or in the *British* plantations in *America*, or in any other of his majesty's dominions out of *Great Britain*, and foreign possessions.

The duty to be charged in respect thereof shall be computed at not less than the full amount of the actual sums annually received in *G. B.* either for remittances from thence payable in *G. B.* or from property imported from thence into *G. B.* or from money or value received in *G. B.* and arising from property which shall not have been imported into *G. B.* or from money or value so received on credit or on account in respect of such remittances property money or value, brought or to be brought into *G. B.* computing the same on an average of the three preceding years, as directed in the first case, without deduction or abatement.

6th. Profits not previously described.

Computation of duty on undecribed profits.

VIth CASE.—The duty to be charged in respect of any annual profits or gains not falling under any of the foregoing rules, and not charged by virtue of any of the other schedules contained in this act.

The nature of such profits or gains, and the grounds on which the amount thereof shall have been computed, and the average taken thereon (if any), shall be stated to the commissioners, and the computation shall be made either on the amount of the full value of the profits and gains received annually, or according to an average of such period greater or less than one year as the case may require, and as shall be directed by the said commissioners; and such statement and computation shall be made to the best of the knowledge and belief of the person in receipt of the same, or entitled thereto.

Persons carrying on two or more concerns may set the loss sustained in one against the profits acquired in the other concern.

By s. 113. Nothing herein contained shall be construed to restrain any persons carrying on, either solely or in partnership, two or more distinct trades &c. the profits whereof are made chargeable under the rules of schedule (D.) from deducting or setting against the profits acquired in one or more of the said concerns, the excess of the losses sustained in any other of the said concerns over and above the profits thereof, in such manner as may be done under this act where a loss shall be deducted from the profits of the same concern, or to restrain any of such persons from making separate statements thereof, or to restrain any such persons residing a dwelling house part whereof shall be used by them for the purposes of any trade or concern or any profession hereby charged from deducting

deducting or setting off from the profits of such trade &c. such sum not exceeding two third parts of the rent *bona fide* paid for such dwelling house with the appurtenances as the said respective commissioners shall on due consideration allow; and the respective commissioners shall have authority to allow such deduction as in other cases, and to assess such person accordingly.

By §. 114. Upon all annuities yearly interest of money or other annual payments, whether such payments shall be payable, within or out of *Great Britain*, either as a charge on any property of the person paying the same by virtue of any deed or will or otherwise, or as a reservation thereout, or as a personal debt or obligation by virtue of any contract, or whether the same shall be received and payable half yearly, or at any shorter or more distant periods, there shall be charged for every twenty shillings of the annual amount thereof the sum of two shillings without deduction according to and under and subject to the provisions by which the duty in the third case of schedule (D) may be charged; provided that in every case where the same shall be payable out of profits or gains, brought into charge by virtue of this act, no assessment shall be made upon the person entitled to such annuity interest or other annual payment, but the whole of such profits or gains shall be charged with duty on the person liable to such annual payment without distinguishing such annual payment, and the person so liable to make such annual payment, whether out of the profits or gains charged with duty, or out of any annual payment liable to deduction, or from which a deduction hath been made, shall be authorized to deduct out of such annual payment at the rate of two shillings for every twenty shillings of the amount thereof (except where the payment is to be made in respect of any annuity or annuities described in the schedule of particulars herein-after set forth; and the party shall produce a certificate of exemption or allowance as herein-before is mentioned, authorizing a deduction at a lower rate, or exempting the payment on such deduction), and the person to whom such payments are to be made as are liable to deduction (except such annuities as aforesaid), to an amount subject to exemption or allowance shall allow such deduction, at the full rate of duty hereby directed to be charged, upon the receipt of the residue of such money, and under the penalty herein-after contained, and the person charged to the said duties, having made such deduction, shall be acquitted and discharged of so much money as such deduction shall amount unto, as if the amount thereof had actually been paid unto the person to whom such payment shall have been due and payable; and the person to whom

Charging with duty all annual interest not otherwise charged.

Interest from profits charged liable to deduction.

Allother interest
to be charged
under schedule
(D.)

such annuities subject to allowances are to be paid, shall allow such deduction as remains to be made after granting the allowance before authorized upon the receipt of the residue of such annuity under the like indemnity as aforesaid; but in every case where any annual payment as aforesaid shall, by reason of the same being charged on any property or security in *Ireland*, or in the *British* plantations, or in any other of his majesty's dominions, or on any foreign property or foreign security, or otherwise be received or receiveable without any such deduction as aforesaid, and in every case where any such payment shall be made from profits or gains not charged by this act, or where any interest of money shall not be reserved or charged or payable for the period of one year, then and in every such case there shall be charged upon such interest annuity or other annual payment as aforesaid, the duty before mentioned, according to and under and subject to the several and respective provisions by which the duty in the third case of schedule (D.) may be charged: provided always, that where any creditor on any rates or assessments not chargeable by this act as profits shall be entitled to such interest, it shall be lawful to charge the proper officer having the management of the accounts with the duty payable on such interest, and every such officer shall be answerable for doing all things necessary to a due assessment of the said duties and payment thereof as if such rates or assessments were profits chargeable under this act, and such officer shall be in like manner indemnified for all such acts as if the said rates and assessments were chargeable.

Interest secured
on rates to be
charged on the
officer managing
the accounts.

And by s. 115. If any person shall refuse to allow any deduction authorized to be made by this act out of any payment of annual interest of money lent or other debt bearing annual interest, whether the same be secured by mortgage or otherwise, shall forfeit for every such offence treble the value of such principal money or debt; and if any person shall refuse to allow any deduction authorized to be made by this act out of any rent or other annual payment mentioned in the ninth and tenth rules of No. IV. Schedule (A.) or out of any annuity or annual payment mentioned in schedules (C.) or (E.) or in the next preceding clause, save such annual interest as aforesaid, every such person shall forfeit the sum of fifty pounds; and all contracts covenants and agreements made or entered into or to be made or entered into for payment of any interest rent or other annual payment aforesaid in full, without allowing such deduction as aforesaid, shall be utterly void.

Penalty on refusing the deduction.

And by s. 116. Whenever it shall be proved to the satisfaction of the said respective commissioners in the district where any person making the application shall reside, that any

any interest of money annuity or other annual payment shall be annually paid out of the profits and gains *bonâ fide* accounted for and charged by virtue of this act at the rate and according to the rules specified in schedule (D.) without any deduction on account thereof, it shall be lawful for any two of such commissioners to grant a certificate thereof, under their hands, in such form as shall be directed under this act, which certificate shall entitle the person so assessed, upon payment of such interest, &c. to deduct so much thereof as a like rate on such interest, &c. would amount unto; and all persons to whom such interest, annuity or other annual payment shall be paid, shall allow such deductions and payments upon receipt of the residue of such interest, &c.; and the person or persons paying the same shall be acquitted and discharged of so much money as a like rate thereon would amount unto, as if the same had actually been paid unto the persons to whom such interest, &c. shall have been payable; provided no such certificate shall be required where such payments are to be made out of the profits or gains arising from lands, tenements, hereditaments or heritages as before mentioned, or of any office or employment of profit, or out of any annuity, pension, stipend or any dividend or share in such public annuities as are herein mentioned; but such deduction may be made without having obtained such certificate.

Deduction on payment of interest of money, and other payments from profits charged under schedule (D.) to be made by virtue of a certificate.

By s. 117. Every householder (except persons engaged in any trade, manufacture, adventure or concern, or any profession, employment or vocation) shall be charged to the said last mentioned duties by commissioners acting for the parish or place where his dwelling house shall be situate; and every person engaged in any trade, &c. shall be chargeable by the respective commissioners acting for the parish or place where such trade, &c. shall be carried on, or where such profession, &c. shall be exercised, whether such trade, &c. shall be carried on, or such profession, &c. shall be exercised wholly or in part only, in *Great Britain*, or whether such person shall be engaged in one only or more of such concerns, except where the same person shall be engaged in different concerns, and a loss from one concern shall be set off or deducted from the profits of another concern; and every person not being a householder, nor engaged in any trade, &c. nor in any profession, &c. who shall have any place of ordinary residence, shall be charged by the commissioners acting for the parish or place where he shall ordinarily reside; and every person, not herein before described, shall be charged by the commissioners acting for the parish or place where such person shall reside at the time of beginning to execute this act by giving such

In what districts the duties are to be charged.

Declaration to be delivered of the place where party is chargeable.

In cases of persons not engaged in trade having two residences, where the duties are to be charged

Possessions in Ireland how to be assessed.

such general notices, as are herein mentioned, or shall first come to reside after the time for giving such general notices; and every such charge made in such parish or place shall be valid notwithstanding the subsequent removal of the person so charged from the parish or place; and, in order that the place where the said last-mentioned duties are to be charged may be ascertained, every person is hereby required, on the delivery of any list or statement as aforesaid, at the same time to deliver a declaration in writing signed by him or her declaring in what place he is chargeable, and whether he is engaged in any trade, &c. or in any profession, &c. or not, and if he shall be so engaged in any trade, &c. also declaring the place where the same shall be carried on or exercised, and the particular concern profession or employment in which he shall be engaged in such place in *Great Britain*, whether wholly in *Great Britain* or in part only as aforesaid; provided, that where any trade shall be carried on in *Great Britain*, by the manufacture of goods, wares or merchandize, the assessment thereon shall be at the place of manufacture, although the sales of such goods, &c. shall be elsewhere: provided always, that every person not being engaged in any trade, &c. having two or more houses or places at which he shall be ordinarily resident, shall be charged at such of the parishes or places wherein the said dwelling house is situate in which he shall be ordinarily resident at the time of beginning to execute this act in relation to the said last mentioned duties by giving such general notices as are herein mentioned, or in which he shall first come ordinarily to reside after giving such general notices: provided always, that the duty to be assessed in respect of the profits or gains arising from possessions or securities in *Ireland* upon any person resident in *Great Britain* as aforesaid (except the profits and gains arising from public annuities dividends and shares of annuities payable out of the revenue of *Ireland* to any persons corporations or companies in *Great Britain*, for which other provisions are herein made, and which duty shall have been assessed and charged according to the said provisions) may be stated to and assessed by the respective commissioners acting for the respective places where the persons receiving, or entitled unto the same, shall reside; and if the same shall be received by any agent attorney or factor, such agent, &c. shall make such return of the name and place of abode of the person entitled thereto as is herein required to be made of other persons of full age resident in *G. B.* or if not of full age shall be answerable for doing all things as shall be required by this act to be done in order to the assessing such profits to the said last-mentioned duties, and paying the same: provided also, that the respective persons

persons holding offices in *Ireland*, or serving in parliament, who shall be exempted from any duties under the management of the commissioners for the affairs of taxes shall, under the like circumstances under which such exemptions are to be claimed, be chargeable to the duties under this act in like manner only as subjects of his majesty residing out of *G. B.*: provided also, that the duty to be assessed in respect of the profits or gains arising from foreign possessions or foreign securities, or in the *British* plantations in *America*, or in any other of his majesty's dominions, may be stated to and assessed by the respective commissioners acting for the respective places herein-after mentioned; *videlicet*, *London*, *Bristol*, *Liverpool* and *Glasgow*, according to the regulations herein after mentioned, as if such duty had been assessed upon the profits or gains arising from trade or manufacture carried on in such places respectively; and such duty shall be stated to and assessed and charged by the commissioners acting for such of the said places at or nearest to which such property shall have been first imported into *G. B.* at or nearest to which the person who shall have received such remittances, money or value from thence and arising from property not imported as aforesaid shall reside; and in default of the owner or proprietor thereof being charged, the trustees, agent or receiver thereof, shall be charged for the same, and shall be answerable for the doing of all such things, as shall be by this act to be done, in order to the assessing such profits to the said duties and paying the same, whether the person to whom the said profits belong shall be resident in *G. B.* or not.

Persons not holding offices in *Ireland*, etc. resident in Great Britain as such to be chargeable as subjects resident out of Great Britain. Duties on profits of foreign or colonial possessions or securities, where to be charged.

xi. (f.) *Where statements are to be delivered.*

And by *f. 118.* Every person having two residences, or carrying on any trade or exercising any profession in different places, or in any place different from the place of his ordinary residence, shall, if required by the respective commissioners, deliver at each such place the like lists, &c. as he is hereby required to deliver in the parish or place where such person ought to be charged, but shall not be liable to any double charge by reason thereof; and all lists, &c. containing the amount of profits chargeable under schedule (D.) may be delivered sealed up, if superscribed with the name, and place of abode of, or place of exercising the profession or carrying on trade by the person by whom the same shall have been made, to the respective persons, and in manner herein directed.

Statements to be delivered at each place of residence.

Of profits chargeable under schedule (D.) to be delivered under seal.

xi. (g.) *How additional commissioners are to assess.*

By *f. 119.* All statements of profits and gains described in schedule (D.) shall be laid before the respective additional commissioners in their respective districts, or the commissioners for general purposes acting as additional commissioners in

Additional commissioners to consider statements, and make assessments on such as are satisfied

in pursuance of this act, who shall appoint meetings within their respective districts, for taking all statements delivered to them into consideration, within a reasonable time after the inspector or surveyor shall have had the examination of such statements; and in case the said additional commissioners respectively shall be satisfied that any such statement hath been *bonâ fide* made according to the provisions of this act, and so as to enable the commissioners to charge the person returning the same with the full duties with which he ought to be charged on account thereof, or more; and in case no information shall be given to the said commissioners of the insufficiency thereof, or no objection shall be made by the inspector or surveyor which he is hereby empowered to make for sufficient cause, the said commissioners shall direct an assessment to be made of the duties chargeable on such statement by virtue of this act.

xi. (h.) *How surveyors are to appeal against it.*

Where the surveyor is dissatisfied with an assessment, he may state a case.

And by *s. 120.* Where the surveyor or inspector shall apprehend the determination made by the said commissioners to be contrary to the true intent of this act, and shall then declare himself dissatisfied with such determination, such surveyor or inspector may require the said commissioners to state specially and sign the case upon which the question arose, together with their determination thereupon, which case the said commissioners, or the major part of them then present, are hereby required to state and sign accordingly, and to cause the same to be by him transmitted to the commissioners for general purposes for the same district; who are hereby required, with all convenient speed, to return an answer to the case so transmitted, with their opinion thereon subscribed thereto: according to which opinion so certified, the assessment which shall have been the cause of such appeal shall be altered or confirmed.

When no statement or no sufficient statement is returned, the additional commissioners to make an assessment according to the best of their judgment.

And by *s. 121.* In every instance in which any person shall have made default in the delivery of any statement such person not having been otherwise charged to the said last-mentioned duties, or if the said additional commissioners shall not be satisfied with the statement delivered by any person, or any objection shall be made thereto by the inspector or surveyor, (which he is hereby authorized and required to do in writing setting forth the cause thereof) or the said additional commissioners shall have received any information of the insufficiency of any statement, the said additional commissioners, or any two or more of them, shall assess such person in such sum as according to the best of their judgment ought to be charged on such persons by virtue of this act, which assessment shall be subject to an appeal, according to the direction herein-after contained.

Additional commissioners may state statements

By *s. 122.* Whenever the additional commissioners shall think it proper to refer any statement to the commissioners for

for general purposes, without making any assessment thereon, it shall be lawful for them so to do on delivering to them the case in writing relative to such statement, as the same shall appear to them, with any matter in question between them, either as to law or fact, and the said commissioners for general purposes shall proceed to inquire into the merits of such statement, in like manner as they would have been hereby authorized to do, in case the said additional commissioners had made an assessment on such statement, and the party charged had appealed against such assessment.

to commissioners
for the purpose
of the act.

And by *f. 123.* The inspector or surveyor, being sworn as aforesaid, may at all seasonable times inspect and examine any assessment made as last aforesaid, before the delivery thereof to the commissioners for general purposes; and in case he shall discover any error in the same, which in his judgment shall require amendment, he shall certify the same to the said additional commissioners, by whom the assessment shall have been made, and the said additional commissioners, upon sufficient cause being shewn to them, shall amend the same as in their judgment the case shall require.

Inspector and
surveyor may
examine ass-
essments, and er-
roneous assess-
ments may be
amended on
their certificate.

And by *f. 124.* Where the surveyor or inspector shall object to the amount of any assessment by additional commissioners, which he is hereby empowered to do in every case upon sufficient cause, he shall state such objection to the additional commissioners of the district, in writing as before directed, any two of whom shall thereupon certify the same to the commissioners for general purposes in the same district, together with the reasons for such assessment, and any information they shall have obtained respecting the same; and the said surveyor or inspector shall also give such notice thereof to the party assessed, as he is required to do by the said several recited acts respectively, in cases of surcharge in order that the party so charged may be at liberty to appear before the said commissioners for general purposes, in support of such assessment.

Surveyor to state
his objection to
assessments in
writing, and to
give notice to,
the party.

And by *f. 125.* The additional commissioners shall cause certificates of assessments to be duly made out from time to time as the same shall be completed, distinguishing the ward, parish, or place within their respective districts, for which each assessment shall be made, which shall contain the names and surnames of the parties charged, and the sums which they respectively ought to pay by virtue of this act, and shall cause such certificates to be entered in books provided for that purpose, according to such forms as shall be transmitted to them by the commissioners for the affairs of taxes, and any two of them shall from time to time sign the same, and from time to time deliver the same so entered and signed to the commissioners for general purposes in the same district under cover sealed up, and shall also cause the statement returned to them by the parties so assessed, or by the assessor, relating to such assessments,

Additional com-
missioners to de-
liver certificates
of assessments.

assessments, to be delivered at the same time to the said commissioners for general purposes; provided that no assessment made by additional commissioners or persons acting as such shall be delivered to the respective parties until the expiration of fourteen days after the assessment so signed as aforesaid shall have been delivered to the commissioners for general purposes, or the persons acting as such, and the inspector or surveyor shall have had notice thereof.

xi. (i.) How appeal to be made.

Persons aggrieved to appeal.

By *s. 126.* If any person shall think himself aggrieved by an assessment made as aforesaid, or by any objection to such assessment made as aforesaid, it shall be lawful for him to appeal to the commissioners for general purposes in the same district where such assessment was made, on giving ten days notice thereof to the assessor surveyor or inspector; and all appeals to be made in pursuance of this act, shall be heard and determined by the respective commissioners acting for general purposes for the same district where the cause of appeal arose, and not otherwise.

For fixing the time for hearing appeals.

And by *s. 127.* The commissioners for general purposes shall from time to time appoint days for receiving appeals as soon after any assessments shall be returned to them by the additional commissioners as conveniently can be done, and the assessors shall cause notice thereof to be given to the respective appellants, and the meetings of the commissioners for that purpose shall be held from time to time within the time limited by the said commissioners, with or without adjournment; and no appeal shall be received after the time limited by the said commissioners, except on the ground of diminution of income as herein mentioned; provided always, that if any person shall be prevented from absence sickness or other reasonable cause to be allowed by the said commissioners, from making or proceeding upon his appeal within the time so limited, it shall be lawful for the said commissioners to give further time for that purpose, or to admit the same to be made by any agent clerk or servant on the behalf of such appellant.

Notice to be given of the time limited for hearing appeals, and fixed on church doors.

And by *s. 128.* In order that all appeals upon such last-mentioned assessments may be determined in due time, the said commissioners shall cause a general notice to be stuck up in their office or left with the clerk of the commissioners, and also to be affixed on the door of the church or chapel of such parish or place, or of some adjoining parish or place where such place has no church or chapel, limiting the time of hearing all appeals, and which shall be limited to be heard within a reasonable time after the cause of appeal shall have arisen; and no appeal shall be heard after the time in such notice to be limited, unless the appeal shall be made on behalf of any person who shall be absent out of the

the realm, or prevented by sickness from attending in person in the time so to be limited, in which cases it shall be lawful for the said commissioners to postpone such appeals from time to time, or to admit other proof than the oath or affirmation of the party, of the truth of the several matters required by this act to be proved by the oath or affirmation of the party.

By s. 129. Upon the receiving notice of any appeal against any assessment made as last aforesaid, and also in every case where the commissioners for general purposes, or the major part of them present, shall see cause to allow the objection of such surveyor or inspector to such assessment, the said commissioners shall direct their precept to the person appealing, to return to them, within the time limited in such precept, a schedule containing such particulars as the said commissioners shall demand under the authority of this act for their information, either respecting the particulars of the property of such person, or respecting the trade &c. carried on by such person, or the profession &c. exercised by such person, and the amount of the balance of the profits and gains of such person, distinguishing the particular amounts derived from each separate source before mentioned, or respecting the particulars of the deductions from any of such profits or gains made in such statements or schedules, and which the said commissioners are to demand at their discretion whenever the same shall appear to them necessary for the purposes mentioned in this act, and so from time to time until a complete schedule to the satisfaction of the said commissioners of all the particulars required by them shall be delivered; and every such precept being delivered to or left at the last or usual place of abode of the person to whom the same shall be directed shall be binding upon such person according to the exigency of such precept; or in case such person shall have removed from the jurisdiction of the commissioners, or cannot be found, or his place of abode shall not be known, then upon fixing such precept on the door of the church of the place where the commissioners shall meet in the execution of this act, or fixing up the same in their office, such precept shall also be binding upon such person according to the exigency thereof; and such person shall make the return required by the said commissioners within the time limited in such precept, under the penalty in this act contained, and subject to such charge as the said commissioners are hereby authorized to make in such case, to which schedule any inspector or surveyor sworn as aforesaid, shall have free access at all reasonable times, and shall take such copies thereof, or of
any

On appeal, and when objection made by the surveyor is allowed, the commissioners to require a schedule.

any parts thereof, or extracts from the same, as he shall think necessary for the due execution of this act.

Surveyor may object to statements in schedule, giving notice to the party.

By *f. 130.* It shall be lawful for the inspector or surveyor sworn as aforesaid, within a reasonable time to be allowed by the said commissioners for general purposes, after he shall have had the examination of such schedules, to object to the same, or any part thereof, and to state such objections in writing, and the cause thereof, to the best of his knowledge; and the said surveyor or inspector shall, in every case of objecting to such schedule, deliver a notice in writing of such objection to the party to be charged or leave the same at his last or usual place of abode respectively under cover sealed up and directed to such party, in order that such party may appeal from the same to the said commissioners as herein is directed: provided always, that no assessment shall be confirmed nor any alteration therein be made until the appeal upon such objection or assessment shall be heard and determined according to the directions of this act.

Commissioners over-ruling objection, or satisfied with the assessment or schedule, may confirm or alter the assessment accordingly.

By *f. 131.* If upon receiving objections of such surveyor or inspector to any schedule, the said commissioners or the major part of them present at any meeting for the purpose of taking such objections into consideration, shall see cause to disallow them, or if upon hearing of any such appeal as aforesaid the said commissioners shall be satisfied with the assessment made by the additional commissioners, or after delivery of a schedule they shall be satisfied therewith and shall have received no information of the insufficiency thereof, the said commissioners for general purposes shall direct such assessment to be confirmed, or altered according to such schedule as the case may require; provided, that in every case where they shall think proper that the said statement on which the additional commissioners made their assessment, or the schedule delivered to the commissioners for general purposes shall be verified, they shall direct the assessor to give notice thereof to the person to be charged with the said duties, and to appear before them to verify the same in the manner herein-after mentioned; and every such person to whom such notice shall be given, shall appear before the said commissioners for general purposes, and on oath or solemn affirmation as aforesaid, to verify the contents of his statement or schedule, and to sign and subscribe the same with his proper name; which oath or affirmation shall be that the contents of such statement or schedule are true to the best of his judgment or belief, and that the same contains the just balance of the profits and gains arising from the sources therein contained, after making such deduction.

deductions as are therein stated; and that no deductions whatever than such as are therein stated, have been made from the profits or gains accounted for, and to such amount only as is therein stated: provided always, that such person shall be at liberty to amend such statement or schedule, before he shall be required to take such oath or affirmation, and after such oath or affirmation and in every case where such statement or schedule shall not have been objected to as aforesaid, and the said commissioners shall be satisfied therewith, they shall make an assessment according to such statement or schedule on the amount therein stated, at which the duty therein shall have been computed; and every such assessment made after verification of such statement or schedule, shall be final and conclusive as to the matters contained in such statement or schedule.

By s. 132. Whenever the said commissioners for general purposes shall be dissatisfied with any assessment returned by the additional commissioners to them, or with any schedule delivered to them, or shall require further information respecting the same, or either of them, or any part thereof, it shall be lawful for the said commissioners to put any questions touching such assessment, or the contents of such schedule, or any of them, or touching any of the matters which ought to be contained therein, or any sums which shall have been set against or deducted from the profits or gains to be estimated in such assessment or schedule, and the particulars thereof in writing, and to demand an answer accordingly from such person, signed by him, and so from time to time, whenever the said commissioners shall think the same necessary; and shall from time to time issue their precepts, requiring true and particular answers to be given to such questions, within seven days after the issuing of such precepts, and every such person shall make true and particular answers in writing signed by him to such questions within the time limited by such precept, or shall within the like period tender himself before the said commissioners for general purposes, to be examined by them *viva voce* to such matters; and every person required to make such answers, or appearing before the said commissioners to be examined as a party, or as the clerk, agent or servant of such party, as herein is mentioned, shall be permitted to give his answers either in writing as aforesaid or *viva voce*, without having taken any oath or affirmation, and shall be at liberty to object to any question, and peremptorily to refuse answering the same; and the substance of such answers as he shall give *viva voce*, shall in his presence be reduced into writing, and read to him, and he shall be at liberty to alter any part thereof, and also to alter or amend any particular contained in his answers in writing or any schedule or declaration,

Commissioners may put questions in writing, touching any assessment or schedule, and receive answers.

tion, before he shall be called upon to verify the same in the manner herein directed; and every such schedule shall be altered or amended, as shall seem requisite, after such enquiry or examination.

xi. (k.) *When a party may be called to verify on his oath.*

Commissioners for general purposes may call upon the party to verify their answers on examination upon oath.

And by s. 133. The said commissioners for general purposes in every such case as aforesaid, may whenever the said commissioners shall think the same necessary require such person upon whom any assessment has been made by the additional commissioners with which the said commissioners for general purposes are dissatisfied, or from whom such schedules or answers in writing as aforesaid have been received, with which the said commissioners are dissatisfied, to appear and verify the same, and upon appearance of such person to permit him to alter or amend the same, and thereupon to administer to such person the oath or affirmation herein-after mentioned, and also to require any person who shall have been examined *viva voce* before them, to verify his examination on such oath or affirmation, which oaths or affirmations any one of the said commissioners may administer, and which oath or affirmation respectively shall be, that the contents of the statements or schedules are true to the best of his knowledge and belief, and contain a full and true account of the balance of all the profits and gains of the deponent chargeable by this act, to the best of his knowledge and belief, and of all and every deduction made from his profits or gains, in adjusting such balance, or that the contents of all such answers in writing as shall have been returned to the said commissioners by him as the same are then stated, or that the contents of his examination, as the same have been reduced into writing, are true; and every such oath or affirmation shall be subscribed by the party taking the same.

May summon witnesses and examine them upon oath.

And by s. 134. The said commissioners for general purposes may summon in like manner any person whom they shall think able to give evidence or testimony respecting the assessment made or to be made on any such person, to appear before them to be examined, and to examine all such persons who shall so appear before them on oath or affirmation (except the clerk, agent, or servant of the person to be charged, or other person confidentially intrusted in the affairs of such party, and who shall respectively be examined in the same manner, and subject to the same restrictions as are herein before provided for the *viva voce* examination of any party touching the assessments to be charged on him), which oath or affirmation any one of the said commissioners may administer, and which oath or affirmation shall be that the testimony or evidence to be given by him,

him, shall contain the whole truth, and nothing but the truth; in respect of the matter in question concerning which such evidence or testimony is to be given; and every such oath or affirmation shall be subscribed by the persons taking the same.

xi. (l.) *When commissioners are to assess.*

By s. 135. If the said commissioners for general purposes, or any two of them, or the major part of them present, after hearing all such appeals as shall be depending before them, or upon any objection made by the inspector or surveyor to any such last-mentioned assessment or schedule, whether such enquiry or examination as aforesaid shall have taken place or not, shall agree to make an assessment according to the statement contained in the said schedule as the same shall have been returned, or altered or amended upon appeal as aforesaid, they shall direct an assessment to be made of the duties chargeable on the statement contained in the said schedule, at the rate contained in this act; and if the said commissioners shall think proper to require a verification of the said schedule, they shall give notice thereof in manner aforesaid to the party to appear before them to verify the said schedule; and such verification shall be made by the party in such manner, and such assessments thereupon shall be made as herein-before directed, which assessments shall be final and conclusive as aforesaid; but nevertheless in every instance where any person shall have neglected or refused to return such schedule according to the exigency of the precept of the commissioners; or if any clerk, &c. of such party as aforesaid, being summoned, shall have neglected or refused to appear before the commissioners to be examined, or if such party his or her clerk &c. shall have declined to answer any question put to him by the said commissioners in writing, or *viva voce*; or where the schedule delivered shall have been objected to as aforesaid, and such objection shall not have been appealed against within such reasonable time as is directed by this act; or where any person being required so to do, shall have neglected or refused to verify his statement or schedule, or his answers or examination in writing; or where the commissioners shall agree as aforesaid to allow the objections, or any of them, made by such surveyor or inspector, the said commissioners, shall in every such case, according to the best of their judgment, settle in what sums such persons ought to be charged, and to make an assessment accordingly, which assessment shall be final and conclusive.

Commissioners agreeing to make an assessment on the schedule may do so, but in certain cases commissioners may make an assessment according to their judgment, which shall be final.

By s. 136. Where the said commissioners for general purposes shall have made any increased assessment upon the amount contained in the statement or schedule of the party to be charged, or shall at any time during the continuance

Where an assessment shall be increased, the commissioners may charge the party with the

penalty not
exceeding double
the amount.

of this act, discover that any increase ought to be made, whether upon the surcharge of the surveyor or inspector, or from his information, or otherwise, it shall be lawful for them to charge such person in a sum not exceeding double the amount by which the duties shall have been increased (that is to say) where the party shall have refused or neglected to deliver any statement or schedule, then in a sum not exceeding double the amount of the sum which, according to the rate prescribed in schedule (D.) such person in the judgment of the said commissioners ought to be charged at, to be added to the assessment, and applied as directed by this act in other cases of increased assessments; and in case a statement or schedule shall have been so delivered, then in a sum not exceeding double the amount beyond the amount contained in such statement or schedule, unless such person shall in every such case make it appear that the omission complained of did not proceed from any fraud or contrivance or any gross or wilful neglect.

xi. (m.) Penalties.

Penalty on
persons neglect-
ing to deliver
schedules or
attend summons
of commissioners.

By s. 137. If any person required so to do by the respective commissioners for general purposes, shall refuse or neglect to make out and deliver any schedule to the person to whom the same ought to be delivered in pursuance of this act, or shall refuse or neglect to appear before the said commissioners to verify upon oath or affirmation before such commissioners any statement or schedule by him delivered within the times limited by such commissioners respectively in pursuance of this act, every such person so offending shall for every such offence forfeit and pay not exceeding twenty pounds, and double the duty at which such person ought to be assessed, to be recovered as any penalty may be recovered under the said recited acts respectively.

Schedules may
be amended.

But by s. 138. It is provided that if any person who shall have delivered a statement or schedule, shall discover any omission or wrong statement therein, it shall be lawful for such person to deliver an additional statement or schedule, rectifying the same; and such person shall not afterwards be subject to any proceeding upon this act, by reason of such omission or wrong statement; and if any person shall not have delivered a statement or schedule within the time limited by the commissioners for that purpose, it shall be lawful for such person to deliver a statement or schedule, in manner herein directed, at any time before a proceeding shall be had to recover the penalty herein-mentioned, and no proceeding shall be afterwards had for recovering such penalty; and if any proceeding shall have been actually had before the commissioners for recovering such penalty, it shall be lawful for the commissioners before whom such proceedings

ceedings shall be commenced, on due proof to their satisfaction that no fraud or evasion whatever was intended, to stay such proceedings, either on the terms of paying, or without paying the costs then incurred, as the commissioners shall think fit; and if any proceedings shall have been commenced in any court, it shall be lawful for such commissioners to certify, that in their judgment no fraud or evasion was intended by the party making such omission; and it shall be lawful for any judge in such court, on a summary application, to stay such proceedings on such terms as aforesaid, as he shall think fit; or if such person shall have delivered an imperfect statement or schedule, and shall give to the commissioners a sufficient reason why a perfect statement or schedule cannot be delivered, the said commissioners, being satisfied therewith, shall give further time, and so from time to time, for the delivery of such statement or schedule; and such person shall not be liable to any penalty for not having delivered such statement or schedule within the time before limited, in case such person shall have delivered as perfect a statement or schedule, as from the nature of the case, he or she was enabled to give, and so from time to time as long as the commissioners shall grant further time as aforesaid.

xi. (n) *Abatement on account of diminution of income, &c.*

By s. 139. That if within or at the end of the year current at the time of making any assessment under this act, or at the end of any year when such assessment ought to have been made, any person charged to any of the duties contained in schedule (D) whether he shall have computed his profits or gains arising as last aforesaid on the amount thereof in the preceding or current year, or on an average of years, shall find and shall prove to the satisfaction of the commissioners for general purposes by whom the assessment was made, that his profits and gains during such year for which the computation was made fell short of the sum so computed in respect of the same source of profit on which the computation was made, the commissioners, or the major part of them, on proof before them, may cause the assessment made for such current year to be amended in respect of such source of profit as the case shall require; and in case the sum assessed shall have been paid, to certify under their hands and seals to the governor and company of the bank of *England*, or the receiver general to whom the same shall have been paid, the amount of the sum overpaid upon such first assessment; and on production of such certificate, it shall be lawful for the said governor and company to direct their cashiers, and for the said receiver general, to repay such sum as shall have been so overpaid, out of any publick monies

Abatement on account of diminution of income, how to be allowed.

herein directed to be paid to such cashiers, or of such receiver general, who respectively shall, if necessary, replace the same out of the first monies that shall come to their hands respectively of the duties granted by this act, for which payments the certificate of the said respective commissioners shall be a sufficient authority.

Abatement to be allowed, when person shall cease to exercise any trade, or shall die before the end of the year.

And by §. 140. In case any person charged to the said last-mentioned duties, whether the computation thereon shall have been made on the profits of one year, on an average as herein allowed, shall cease to exercise the profession, or to carry on the trade &c. in respect whereof such assessment was made, or shall die, or be bankrupt or insolvent before the end of the year for making such assessment, or shall, from any other specifick cause, be deprived of or lose the profits or gains on which the computation of duty charged in such assessment was made, it shall be lawful for such person, or the heirs executors administrators or assigns of such person, to make application to the commissioners for general purposes of the district, within three calendar months after the end of such year, and on due proof thereof, to the satisfaction of such commissioners, it shall be lawful for them to cause the assessment to be amended, as the case may require, and to give such relief to the party charged, his heirs &c. as shall be just; and in cases requiring the same to direct, in manner before mentioned, repayment to be made of such sum as shall have been overpaid on the assessment amended or vacated: provided always, that where any person shall have succeeded to the trade or business of the party charged, no such abatement shall be made, unless it shall be proved, to the satisfaction of the said commissioners, that the profits and gains of such trade or business have fallen short from some specifick cause, to be alledged to them and proved, since such change or succession took place, or by reason thereof; but such person so succeeding to the same, shall be liable to the payment of the full duties thereon without any new assessment.

xi. (o.) How commissioners shall be assessed.

Mode of assessing commissioners to duties under schedule (D.)

By §. 141. The commissioners acting in the execution of this act for any district as commissioners for the general purposes of this act, shall be charged and assessed to the duties contained in schedule (D.) if liable thereto, by the additional commissioners for the same district; and the additional commissioners acting for the same district, shall be charged and assessed to the said duties by each other respectively, and according as they ought to be charged; and any two of the said respective commissioners acting for any district, shall respectively be competent to assess any other person acting as such commissioner for the same district, in like manner as if such person had not acted as such commissioner.

fioner; and the said several commissioners shall respectively divide themselves in such manner, as that every such commissioner shall be assessed by two other commissioners, and the appeal therefrom (if any) may be determined by two commissioners for general purposes, neither of whom shall be concerned or interested in the determination thereof either for himself, or in any character before described for any other person; and the said additional commissioners shall respectively establish such regulations among themselves for assessing each other in manner aforesaid, as may most effectually secure an impartial assessment upon every commissioner, according to the true intent of this act; provided that any commissioner, whose statement or schedule shall be under consideration, or shall be concerned or interested therein, either for himself or for any other person in any character before described, shall have no voice and shall not be present, except upon an appeal, for the purpose of being examined *viva voce* by the commissioners then having the assessment or schedule under consideration, but shall withdraw during the consideration and determination thereof.

xi. (p.) *How assessments shall be entered.*

And by *f.* 142. All assessments upon profits or gains under schedule (D.) made by the commissioners for general purposes, shall be entered in books with the names and description of the persons corporations &c. to be charged therewith, and their respective places of abode set opposite thereto, and which entries shall respectively be numbered progressively, or lettered, or distinguished by numbers or letters, as the said respective commissioners shall think proper; and when the said respective commissioners shall have caused to be made any such entry in such book, in case the person charged by such assessment, shall have declared his intention to pay the duty so assessed into the Bank of *England* or to the receiver general or his deputy within the time limited by this act for payment thereof, and the said commissioners shall be satisfied with such declaration, they shall deliver to such person, or such other person as shall be there attending on his behalf, a certificate under the hands of two of such commissioners specifying the amount of the sums to be paid within one year upon such assessment; and every such certificate shall be numbered or lettered with the same number or letter as the entry in the book of the said commissioners to which such certificate shall relate shall be marked and numbered or lettered, without naming or otherwise describing the person or persons charged thereby; which certificate shall, on production thereof, be a sufficient authority to the governor and company of the Bank of *England*, and to the respective receivers general or their respective deputies in *England*, from time to time to receive from any person

Assessments of the duties to be charged under the provision of schedule (D.) to be entered, and certificates of the amount to be delivered by a number or letter without the names of the parties assessed, where the parties intend payment into the Bank, &c.

bearing and producing such certificate, the amount of the sums therein contained, in such proportions thereof as by this act are made payable by instalments and at the times by this act appointed for payment thereof, or in advance; and on the payment of the sums contained in any such certificate or any proportion thereof, the said governor and company and the said receivers general, and their respective deputies, shall give certificates for the same, acknowledging the receipt of the sum paid on account of the certificate of the said respective commissioners, by the number or letter marked thereon as before directed.

Commissioners
to deliver war-
rants to collec-
tors, except
where parties are
assessed by a
number or
letter,

By *s.* 143. Where the commissioners shall not have received a declaration of the intended payment into the Bank of *England*, or to the receivers general, or their deputies respectively as aforesaid, of the duty to be charged under schedule (D.) or shall not be satisfied with such declaration, they shall deliver a duplicate of the assessments to the collector, with the names and descriptions of the parties charged therewith, together with their warrants for collecting the same, in such form and under the like powers as they are authorized to collect the duty under any of the other schedules contained in this act; and if after the receipt of any such declaration the duties shall not be duly satisfied and paid accordingly, the said commissioners shall cause the names of the defaulters and the amount of duty assessed on each to be inserted from time to time in the duplicate of such collector, and the warrant for collecting the same shall be of the like effect as if such names and sums had been inserted therein at the time of issuing such warrant.

Commissioners
to send dupli-
cates to remem-
brancers and
receivers
general,

And by *s.* 144. Whenever such assessments under schedule (D.) shall be completed in any district, the respective commissioners for general purposes acting therein, shall cause to be delivered a duplicate on parchment, under their hands and seals, fairly written, containing the whole sums assessed by them, into the office for the affairs of taxes, for the use of the king's remembrancer's office of the exchequer; and the said commissioners shall also deliver a like duplicate under the respective receivers general.

Appointing
deputy receivers
in certain
places,

By *s.* 145. It shall be lawful for any receiver general, at the request of any commissioners acting for general purposes in relation to the said last-mentioned duties in or for any city or town in *Great Britain*, (except within the city of *London*, or within ten miles of the same), and with the approbation of the commissioners for the affairs of taxes, to appoint a proper person resident in such city or town, who shall give security to the satisfaction of the said receiver general, to be his deputy for the receipt of such of the said last-mentioned duties arising within such city or town, or within the district where such city or town shall be situated,

as shall be assessed under a letter or number, pursuant to a declaration of the party's intention to pay the duty to such receiver general or his deputy as aforesaid, regard being had in such appointment to the population and extent of such city or town, for which deputy the said receiver general shall be answerable; and it shall be lawful for the commissioners for the affairs of taxes to allow to the respective deputies so appointed, such salary and reward for their attendance and trouble as shall be agreed upon between such commissioners and the person to be appointed such deputy, and as shall be approved of by the said commissioners for the affairs of taxes, not exceeding the rate of one penny half-penny of the sum received by such deputies respectively, and paid over to such receiver general; and every such deputy shall on some day in every week, to be named in the bond to be entered into by him, pay or remit to such receiver general the whole amount of the duties then in his hands, and shall faithfully account for the same to such receiver general.

By *f. 146.* The respective commissioners for general purposes may issue out to the respective receivers general, except where a deputy receiver shall be appointed as herein is directed, and to such deputies where such appointments have been made, duplicates of the assessments made by them, containing the sums assessed on every person to whom a certificate hath been delivered by letter or number, together with the number or letter set opposite thereto in their respective books before mentioned, without naming such persons, with their warrants for their receiving such of the said duties charged by such commissioners respectively when the same shall become payable as aforesaid; and all such sums shall be paid to the respective receivers general, or deputy receivers, where such shall have been appointed, and such part thereof as shall not be so paid to them, shall be levied and collected as herein is mentioned: and in default of the same being so levied, shall be recoverable as a debt upon record, to the king's majesty, his heirs and successors, in manner before directed in other cases.

Duplicates to be delivered to deputy receivers and collectors, where assessments are made under a number or letter with warrant for receiving the duties.

xi. (q.) *Of payments being entered, &c.*

And by *f. 147.* The duties payable on such last-mentioned assessments, shall be paid either into the bank of *England*, or to the receiver general, or to the deputy of such receiver general where such shall be appointed, at the election of the party charged by such instalments as by this act directed, before the respective days appointed for such payments according to the regulations of this act, or by three or two instalments or in one sum in full as the parties shall choose, and the certificates hereby required to be given on such payments shall be delivered to the respective commissioners, or

Persons charged to pay the duties into the Bank or to the receiver or collector at their election, and in default the duties may be levied under the commissioners for the affairs of taxes.

to one or more of them, or to their clerk at their office, before the times when the same are hereby made payable, taking his her or their receipt for the same, which receipt shall be a sufficient discharge for the money so paid, in satisfaction of so much of the assessment as shall be mentioned in such certificate to be so paid : and if any person shall neglect to pay the same, at the time and in the manner hereby directed for payment of such duties, or having paid the same shall neglect to deliver the certificate required to be given on such payment as herein-before directed, it shall be lawful for the respective commissioners for general purposes, and they are hereby required to deliver a duplicate of all sums assessed on any person who shall have made default in paying, or accounting for the payment of the same, together with their warrant, to such collector as they shall appoint to levy the sum in arrear and unpaid, and which duplicate shall be made out, and which sums shall be levied, according to the regulations of the said recited act respectively.

Payments to be entered in the book, at the bank.

By s. 148. The cashier of the bank of *England* shall, on the receipt of any of the said last-mentioned duties, enter the same in the books to be provided for that purpose ; and all such sums shall be entered under the name letter or number contained in the certificate, and every such account kept at the bank of *England*, shall be entered under the head of " The account of the commissioners acting for the
" of " as the case may require, and the receivers general and deputy receivers shall, on the like receipt, cause the same to be wrote off in their respective duplicates ; and the said cashier, receiver general, or deputy to such receiver shall, whenever he shall be required by the respective commissioners for the purposes of this act, deliver to them a true account of all sums paid at the bank of *England*, or to such receiver general or deputy respectively, on account of the duties charged by them respectively, and shall also transmit to the office of the commissioners for the affairs of taxes, when required by them so to do, a true account of the sum so paid.

xi. (r.) Duties paid in advance.

Duties to be paid in advance, subject to discount.

By s. 149. Any person may at any time during the continuance of this act, pay in advance to the governor and company of the bank of *England*, or to their cashier, any sum of money charged as aforesaid, and require a certificate acknowledging such payment ; and it shall be lawful for the cashier on production of the notice or certificate of such assessment, at the time of payment of the said duty in advance (the sum so paid not in any case to be less than the sum which appears by such certificate to be payable by two instalments) to make an allowance at the rate of five pounds per centum per annum out of the sum so paid in advance, calculated

culated upon such sum for the period by which each respective sum shall be paid sooner than the period prescribed by this act for the payment thereof ; and in every such case the said cashier shall give the person paying the same a certificate of such payment, specifying therein the number of instalments thereby discharged and the amount of the allowance for such prompt payment, and referring thereby to the notice or certificate of assessment then produced, and the name number or letter therein mentioned ; and all such allowances shall be made by the said cashier out of the duties to be paid in at the bank of *England* at the time of paying the same ; and all certificates made out by the cashier as aforesaid, being delivered at the respective offices of such commissioner, shall be received by them as cash in discharge of the assessments, and shall be allowed to them in their accounts.

And by *f. 150.* Upon the payment of any such sum of money as aforesaid, into the said bank of *England*, the cashier or other person receiving the same, shall give such certificates as aforesaid signed by him, for the whole of the sums so paid, or separate certificates in like form, for such portions thereof as shall be required, which certificates shall severally be cut off indentwise from the counter cheques thereof, which counter cheques are to remain with the said governor and company ; and every such certificate shall be denominated in the body thereof to be on account of payments made into the said bank, in discharge of the duties assessed by virtue of this act, the excess of the said duties being to be considered as a voluntary contribution.

One certificate or separate certificates shall be given at the bank as required,

By *f. 151.* Upon the delivery of any such certificate as last aforesaid to the said commissioners or at their office, in discharge of the whole of the said duties assessed upon the person delivering such certificate, or any part thereof, the said commissioners or their clerk shall, if required, indorse in writing on the back of the certificate to be given by them in such case, the amount of the number of instalments of the said duties to be discharged by such payments, which receipts of the said commissioners or their clerks as aforesaid, shall be received, without further proof as evidence of such payments, in all courts and places, and before all persons whatever.

On delivery of certificates to the commissioners, the clerk to give a receipt, which shall be a discharge for the duties.

(xii.)—*Schedule (E.)*

f. 152. And be it further enacted, that the duty hereby granted, including the duty contained in the schedule marked (E.) as herein recited, and the said additional duties, shall be assessed and charged in one sum, under the following rules, which rules shall be deemed and construed a part of this act, and to refer to the said last-mentioned duty as if the same had been inserted under a special enactment.

Recited and additional duties in schedule (E.) and rules, deemed part of this act.

Rules for charging the said duties.

To be charged
for all salaries,
fees, or profits
whatever.

Duties charge-
able on the same
by act of parlia-
ment to be
deducted.

Provision re-
specting arrears.

Duties to be
assessed for all
the offices in
each department,
in the place
where the com-
missioners shall
execute their
offices.

Description of
offices to be
charged.

(1.)—The said duties shall be annually charged on the persons respectively having using or exercising such offices or employments of profit, or to whom such annuities pensions or stipends shall be payable, for all salaries fees wages perquisites or profits whatsoever, accruing by reason of such offices employments or pensions, after deducting the amount of duties chargeable on the same by virtue of any acts of parliament where the same have been really and *bona fide* paid and borne by the party to be charged; and each assessment in respect whereof shall be in force for one whole year, and shall be levied for such year without any new assessment, notwithstanding a change may have taken place in such office or employment on the persons for the time having or exercising the same; provided the person quitting such office or employment, or dying within the year, his executors or administrators shall be liable for the arrears due before or at the time of his so quitting or dying, and for such further portion of time as shall then have elapsed, to be settled by the respective commissioners, and his successor shall be repaid such sums as he shall have paid on account of such portion of the year as aforesaid; and each assessment in respect of such annuity &c. shall be in force for one whole year, unless the same shall expire within the year by lapse, death, or otherwise, from which period the assessment thereon shall be discharged:

(2.)—The said duties to be assessed by the respective commissioners for all the offices in each department in the place where the said commissioners shall execute their offices, although certain of the offices in the same department may be executed elsewhere, and shall be due and payable from the respective officers, and their respective successors for the time being:

(3.)—The said duties shall be paid on all public offices and employment of profit of the description herein-after mentioned within *G. B.*; *videlicet*: Any office belonging to either house of parliament, or to any court of justice, whether of law or equity in *England* or *Scotland*; *Wales*, the duchy of *Lancaster*, the duchy of *Cornwall*, or any criminal or judiciary or ecclesiastical court, or court of admiralty, or commissary court, or court martial; any public office held under the civil government of his majesty, or in any county palatine, or the duchy of *Cornwall*; any commissioned officer serving on the staff or belonging to his majesty's army in any regiment of artillery cavalry infantry royal marines royal garrison battalions or corps of engineers or royal artificers; any officer in the navy or in the militia or volunteers; any office or employment

employment of profit held under any ecclesiastical body, whether aggregate or sole, or under any public corporation company or society, whether corporate, or not corporate; any office or employment of profit under any public institution, or on any public foundation of whatever nature or for whatever purpose the same may be established; any office or employment of profit in any county riding or division shire or stewartry, or in any city borough town corporate or place, or under any trusts or guardians of any such tolls or duties, to be exercised in such county riding division shire or stewartry city borough town corporate or place, and every other public office or employment of profit of a public nature:

(4.)—The perquisites to be assessed under this act shall be deemed to be such profits of offices and employments as arise from fees, or other emoluments, and payable either by the crown or the subjects, in the course of executing such offices or employments, and shall and may be estimated either on the profits of the preceding year, or of the fair and just average of one year of the amount of the profits thereof in the three years preceding; such years in each case respectively ending on the fifth day of *April* in each year, or such other day of each year on which the accounts of such profits have been usually made up:

Fees, or other emoluments, may be estimated on the profits of the preceding year, or on any average of three years.

(5.)—In all cases where any salaries fees wages or other perquisites or profits, or any annuities pensions or stipends shall be payable at the receipt of the exchequer, or at any public office, or by any officer of his majesty's household, or by any of his majesty's receivers or paymasters, or by any agents employed in that behalf, then the duties chargeable under this act, in respect of such salaries &c. or in respect of such annuities &c. shall be stopped out of the same, or out of any money which shall be payable upon such salaries &c. or upon such annuities &c. or for the arrears thereof, whenever the same shall happen, and be applied to the satisfaction of the duties on such offices or employments, or on such annuities &c. respectively (not being otherwise paid) in the manner directed by this act; and whenever the same so payable shall be assessed by the commissioners for general purposes in their respective districts, they shall transmit an account of the amount of the duty assessed to the exchequer or office where the same are payable, in order that the amount so assessed may be there stopped or detained:

The duties on salaries, fees, pensions, &c. payable at any public office, to be stopped in case of Non-payment.

(6.)—In all cases where the salaries &c. of any officer chargeable to the said duties, shall not arise out of any of the offices mentioned in the foregoing rule, but shall arise from any other office or employment of profit chargeable to the said duties, and the salaries &c. shall be payable &c.

Duties on salaries, &c. not arising from offices mentioned in the foregoing rule, to be stopped by persons &c.

receiving
such salaries,
&c., &c.

&c. at such office by any officer thereof, or by any receiver of the same respectively, or by any agent employed in that behalf, the duties chargeable under this act in respect of such salaries &c. shall be stopped out of the same, or out of any money which shall be paid upon such salaries &c. or for arrears thereof, whenever the same shall happen, and be applied to the satisfaction of the duties (not otherwise paid) in the manner directed by this act :

Such portion of the duties as are charged with sums payable to any other persons, to be deducted out of the sums payable to such persons.

(7.)—Such portion of the said duties on offices or employments of profit, or on annuities &c. as are charged with any sum of money payable to any other person, shall be deducted out of the sums payable to such other person as a like rate on such sums respectively would amount unto ; and all such persons, their agents and receivers, shall allow such deductions and payments upon receipt of the residue of such sums.

Duty charged upon the principal in an office upon salaries paid to his deputy or clerk to be deducted out of such salaries.

(8.)—Such portion of the said duties, charged on any office or employment of profit executed by any deputy or clerk, or other persons employed under the principal in such office, and paid by such principal out of the salary &c. of such principal, shall be deducted out of the salary or wages so payable as a like rate on such salary or wages would amount unto ; and all such deputies clerks and other persons so employed, shall allow to their respective principals such deductions and payments upon the receipt of the residue of such salaries or wages :

Payments on receipt of salaries, &c. or in passing accounts, or upon the receipt of pensions, to be deducted.

(9.)—In estimating the duty payable upon any such office or employment of profit, or any pension &c. all official deductions and payments made upon the receipt of the salaries &c. or in passing the accounts belonging to such office, or upon the receipt of such pension &c. shall be allowed to be deducted, provided a due account thereof be rendered to the said commissioners, and proved to their satisfaction :

Pensions payable out of a branch of revenue to be charged by the commissioners there.

(10.)—In all cases where any annuities or pensions shall be payable out of any particular branch of the public revenue, the commissioners acting for that department shall have authority to assess and levy the same as a salary or wages payable thereout.

xii. (a.) *Where the office shall be considered to have been exercised.*

Person assessed for offices to be deemed to have exercised the same at the head office.

By s. 153. Every person to be assessed for his office or employment, shall be deemed to have exercised the same at the head office of the department under which such office or employment shall be held, and shall be rated for it as if exercised at such head office, although the duties thereof shall be performed, or the profits or any part thereof arising from such office or employment shall be payable elsewhere

elsewhere within or out of G. B. ; and all assessments made on any inferior officers wherever they shall exercise their office or employment, shall be rated accordingly in the same district where such head office shall be established.

xii. (b.) *Where it shall be assessed.*

And by f. 154. Every office shall be deemed to belong to, and to be assessed by or under the principal officers of that department by or under whom the appointment to such office was made, provided that where such appointment shall be made by any inferior officer in any department, then such office shall be assessed by the same commissioners by whom such inferior officer shall be chargeable for his office : Provided also, that where any such appointment shall be held under the great seal or privy seal, either of *England* or *Scotland*, or shall be made under the royal sign manual, or where any such appointment shall be under the hands or seals of the commissioners of his majesty's treasury, and the same shall not be exercised in the department of the treasury, then the officer holding the same shall be assessed in that department where the office shall have been executed : Provided also, that nothing herein contained shall be construed to limit the right herein-before given to commissioners of the district, of assessing offices before described within their respective jurisdictions, although such offices or any of them may not be held under their appointment, or the profits of such offices may not be payable by them or their order.

In what departments officers shall be assessed.

f. 155. Relates to the *British* museum.

xii. (c.) *Of clerks, &c.*

By f. 156. The several commissioners authorized to execute this act in relation to offices or employments of profit, and pensions or stipends, as soon after their respective appointments as conveniently can be done in their respective departments, shall meet in some convenient place in order to qualify themselves by their taking the oaths prescribed by the said recited act, and shall have power to elect a clerk, and an assessor or assessors ; and in cases where the duties cannot be stopped and detained at the department of office of the said commissioners, or for which the said respective commissioners shall act, collectors of the said duties to be assessed by them from amongst the officers in their respective departments, and separate assessors and collectors in each such department under the cognizance of the same commissioners, which assessors shall, within a time to be fixed by the respective commissioners, deliver to them their certificates of assessment in writing under their hands, to be verified upon their oaths or solemn affirmations, and not otherwise, of the full and just annual value of all offices and employments of profit chargeable under this act in the department

Commissioners to appoint clerks, assessors, and collectors from the officers in their departments.

ment for which they shall be appointed assessors, and of all pensions and stipends, estimated according to this act (after deducting the sum and sums payable thereout respectively by virtue of any former act or acts, where the same have been really and *bona fide* paid and borne by the party to be charged), with the names and surnames of the several officers and persons entitled to pensions or stipends, and the several sums of money they ought to pay by virtue of this act, at the rate of two shillings for every twenty shillings of such value, without abatement or deduction, and without concealment or favour, upon pain of forfeiture for every neglect in the premises of any sum not exceeding one hundred pounds, nor less than twenty pounds, which said assessors are hereby strictly enjoined and required with all care and diligence to charge and assess themselves and all other officers clerks and persons employed in their respective departments of office, and with respect to the duty on pensions or stipends, to charge and assess all persons entitled unto any such pensions or stipends, and respectively to make their assessments according to the provisions of this act; and every such assessor shall have free access to all documents and papers whatever in their respective offices touching the salaries &c. of any officer, clerk or person aforesaid, belonging to their respective offices, and touching the amount of the respective pensions or stipends, and shall be at liberty, whenever the same may be necessary, to require returns from the parties themselves, according to the provisions of this act, that they may be enabled to make a true assessment in pursuance thereof.

Assessors to have access to documents and may require returns.

When a statement of profits from offices must be given.

Statements of profits arising from offices not required under a general notice.

And by s. 157. No person shall in respect of the profits arising from offices or from pensions, chargeable before the respective commissioners appointed for those purposes in their respective departments of office as aforesaid, be liable to the penalty herein contained for not returning a statement of the profits arising from such office &c. in pursuance of any general notice herein-before directed, nor in any case except where the assessor for those profits respectively shall have required a return thereof in pursuance of the next preceding clause.

The full value of offices to be stated although abatements or exemptions are claimed.

By s. 158. In every case where any person holding such offices or employments, or entitled unto any pension or stipend as aforesaid, shall claim an allowance under this act, or to be discharged wholly from such assessment, the commissioners shall nevertheless set down in such assessment the names of such persons and the full and just annual value of such offices &c.; and the claims to such abatements shall be preferred and examined, and the merits thereof shall be heard and determined under the regulations of this act with respect to other assessments.

—By

f. 159. **Enacts,** that where any office or employment of profit chargeable by this act, shall be executed by deputy, such deputy shall in all cases where he shall be in the receipt of the profits thereof, be answerable for and shall pay such assessment as shall be charged thereon, and deduct the same out of the profits of such office or employment; and where the salaries &c. of any officers in any such office, shall be receivable by any one or more of the said officers for the use of such officers, or as a fund to be divided amongst such officers in certain proportions, the officers receiving such salaries &c. shall be answerable for the duties charged thereon, and shall pay the same, and deduct the same out of the funds provided for such respective offices or employments before any division or apportionment thereof; and in case of refusal or nonpayment thereof, shall be liable to such distress as by this act is prescribed against any person having the office or employment, and to all other remedies and penalties respectively herein contained.

Deputies to pay for principals where they are in the receipt of the profits.

Officers receiving salaries or fees to be answerable for duties.

xii. (c). *How value to be ascertained.*

By *f. 160.* The proper officers, or their respective deputies, and the receivers and paymasters in every public department of office, and in every other office for which commissioners are hereby intended to be appointed for raising the duties hereby charged on such offices respectively; and any agents by whom any salaries &c. shall be payable, shall upon request to them made by the respective assessors for the said respective duties, deliver, *gratis*, true lists or accounts of all such salaries &c. received by them, and belonging to such offices respectively, and of all pensions and stipends payable to them respectively, for the better guidance of the said assessors in charging the same; and if the said assessors shall be dissatisfied with such accounts, it shall be lawful for them to require any officer whose office shall not be truly valued in such account, to prepare and produce to them within the like period of time as is limited for the returns of other accounts by this act, a list or account of the salaries &c. of the office exercised by him, which returns such officer shall be obliged to make under the penalties and forfeitures contained in this act for not making other returns hereby required, and from the documents and papers in their respective offices the said respective assessors shall make their certificates of assessment upon the persons holding such offices, or entitled unto such pensions respectively, according to the annual value thereof at the rate in the schedule to this act annexed, and shall as is before directed with respect to assessors for any parish or place, bring in their said certificates to the respective commissioners for their allowance, who shall forthwith set their hands to the same, which

Assessors to be furnished with lists to ascertain the value, and may require returns, and to deliver a certificate of assessment.

assessments shall be in force for one year, commencing and payable at the like periods as the assessments in the parishes are made payable; and the said respective commissioners for the duties on offices shall in all cases, where collectors are authorized to be appointed, cause the like duplicates to be made thereof, and delivered to collectors, with like warrants to collect the said duties as is before directed to be given to collectors for any parish or place; and the said collectors of the said duties on offices shall have the like authority to demand and levy the said duties as is herein given to collectors of any parish or place; provided always, that in all cases where the duties, and any salaries &c. of any public office shall be detained and stopped out of the same, or out of any monies which shall be paid thereupon, the respective commissioners shall cause the like duplicates to be delivered to the proper officers in the respective offices, who shall keep true accounts of all monies stopped and detained under the authority of this act, and shall be answerable for the same; and the money so detained of the duty on annuities &c. shall be accounted for, and paid in the manner herein-after directed.

xii. (f.) Of arrears of non-payment.

Department of office to be answerable for deficiencies, and arrears to be assessed.

By *f. 161.* The particular department in which any assessment shall be made of the said duties on offices, and employments of profit, or on pensions or stipends, shall be answerable for the amount of the duties which shall be charged on the respective officers of such department, or on the pensions or stipends payable by such department, or the officers thereof, and for the said duties being duly detained and stopped at such offices, or their being demanded and levied according to the directions of this act, as any parish or place is hereby made answerable for the duties charged by virtue of this act in such parish or place, and the arrears of such duties as may arise from the default or failure of any collector appointed to collect and levy the same or of any officer or person whose duty it shall be to detain and stop the said duties, shall be raised and levied of the particular collectors officers and other persons who shall have collected detained or stopped such duties, and shall not have paid over the same as by this act is directed under the powers contained in the said recited acts respectively, in the case of a collector therein mentioned; and that in default of recovering the same as aforesaid, the said arrears shall be assessed on the same officers respectively, and on the pensions and stipends respectively on which the said duties shall have been charged, by duly apportioning the same among the several officers and persons assessed in the assessment for the same department in the same year in which such re-assess-

ment shall be made, according to the amount of each person's assessment therein, as nearly as the case will admit, and by the like rules methods and directions, by which the original assessment was made, and under the like powers as are herein or in the said recited acts respectively given in other cases of re-assessment.

f. 162. Where any person having using or exercising any office or employment of profit, which shall be charged to the duties by this act granted thereon, and the said duties cannot be detained in the hands of the proper officer, or in the hands of any agent employed to pay the monies due in respect of the said office &c. or the same monies shall have been paid over to the person having &c. the said office &c.; and such person shall refuse or neglect to pay the sum charged upon him, any two or more of the commissioners for raising the duties on the said offices shall by writing under their hands and seals, certify such neglect or refusal, and the sum payable, to the commissioners for this act in relation to lands tenements and hereditaments, in the parish or place where such officer shall reside; any two or more of whom are required upon receipt of such certificate, by warrant under their hands and seals, to empower the respective collectors of the said duties, or the collectors of the parish or place where such officer resides, to levy the same by such means as they are authorized to levy the duties charged by them respectively in pursuance of this act; and such collectors are hereby authorized to execute such warrant accordingly, and which shall be executed under the like powers, and in like manner as is herein-after directed, and as if such officer was charged to the said duties in such parish or place; and the monies arising thereby shall be paid to the collectors charged to the said duties on such office or employment.

By *f. 164.* The respective assessors and collectors appointed to raise and assess or collect, and pay the sums to be charged on offices or employments of profit, or on annuities pensions or stipends payable by his majesty by virtue of this act, and also the surveyors and inspectors acting in relation to the said duties, shall respectively be subject to the penalties and forfeitures for refusing or neglecting the performance of their duty or for being guilty of any fraud or abuse in executing the same, as are inflicted on such officers respectively by the said recited act for the like offences.

By *f. 165.* Such of the said duties granted by this act, and the contributions hereby authorized, which may be detained, and deducted out of the sums in respect whereof they shall be charged or deducted, shall be respectively detained at such times in each year as the said sums shall be payable to the person or persons entitled thereto.

Duties of offices which cannot be stopped to be certified in case of non-payment, to the commissioners of the district where the parties shall reside, who are to issue their warrants for levying the same.

Officers acting in raising the duties on offices liable to penalties.

(xiii.)—Of surcharges.

Surveyors and inspectors to have access to returns and assessments, with liberty to amend them, and make surcharges.

By *§. 166.* The surveyors or inspectors appointed as herein mentioned, are empowered to examine every return made by any person chargeable to the said duties, or any of them, according to the directions of this act; and in case any of them shall be dissatisfied either with the returns so made, or the estimate of the assessor thereon, or shall discover any error or omission in such estimate, or that any deduction hath been allowed not authorized by this act, they shall charge the same according to the best of their judgment, in the full amount at which the same ought to be charged; and the said surveyors and inspectors shall also be at liberty to inspect and examine every assessment of the said several duties, or any of them, made under the authority of the respective commissioners before mentioned, as well before as after the commissioners shall have signed and allowed the said assessments, and before such allowance to correct and amend such assessment, if he or they shall think fit; and every person in whose custody such returns shall be, is required, upon the request of any such surveyor or inspector, to deliver the same into his custody for the purposes of this act, taking his receipt for the same, and every person in whose custody any such assessments shall be is required, upon the request of such surveyor or inspector as aforesaid, to produce the same, and such surveyor or inspector is hereby authorized to take charge of the same until he shall have taken such copies of or extracts from the same, as may be necessary for his and their better information; and every person willfully obstructing such inspector or surveyor in the due performance of his duty as aforesaid shall forfeit and pay the sum of one hundred pounds; and if any such surveyor or inspector shall find or discover upon his survey or examination, or otherwise, that any person corporation company or society, who ought to be charged with the said duties, or any of them, shall have been omitted to be charged therewith, or shall have been under-rated in the assessment; or that any person or the officer of any corporation company or society liable to the said duties, or any of them, being required so to do, hath neglected or refused to make a return according to the directions of this act, or that the assessor or assessors have neglected to require a return in any case where a return ought to have been required from any person or persons corporations companies or societies according to the intent of this act, so that such person or persons corporations companies or societies shall not have been charged to the amount which ought to have been paid, then and in every such case the said surveyor or inspector shall certify the

the same in writing under his hand, together with an account of every default, and the full amount of the duty which ought to be paid by way of surcharge, to any two or more of the said respective commissioners for putting in execution this act in relation to the duties on which such surcharge shall be made, in order to have such default, or under rate rectified in the said assessment; and such commissioners are upon the delivery of any such certificate and upon oath being first made that a notice of such surcharge was given to or left in writing at the dwelling house or other place of abode of the person so surcharged, or at the office of such corporation company or society, or with the proper officer of such corporation company or society hereby required to sign and allow the said surcharge, and to cause the said assessments to be rectified, and the said duties to be levied accordingly; all which examinations and surcharges the said inspectors and surveyors are hereby empowered to make from time to time until a full and complete assessment shall have been made of all the properties directed to be charged by this act; and if such surveyors or inspectors shall, at any time during the continuance of this act, find that any person hath omitted to make a return within the time herein limited, and an assessment hath not been made of any of the said duties by reason of such omission, it shall be lawful for such surveyors and inspectors respectively to surcharge such person in like manner as they are authorized to surcharge any person who hath been under-rated in the assessment.

By *f.* 167. No assessment or surcharge by any assessor surveyor or inspector, shall be impeached or affected by reason of any mistake or variance in the christian or surname, or either of them, of any person liable to any of the duties payable by this act, nor by reason of any mistake in the description of any lands or other premises, or of any other source of profits to be charged according to the directions of this act, or the rate of the duty surcharged, whether such mistake or variance shall appear in the notice and certificate to be delivered or made in such case, or in either of them; but that all such assessments and surcharges shall be valid to all intents and purposes notwithstanding any such mistake or variance, provided the notice of surcharge be delivered to or left at the abode of the person intended to be so surcharged according to the directions of this act, and the duties intended to be described shall be chargeable on such person or persons.

And by *f.* 168 Any person to whom such notice of surcharge shall be given as aforesaid, at any time previous to the time appointed for hearing appeals next after the del-

No assessment or surcharge to be made by any assessor or surveyor shall be impeached on account of any mistake in the names or descriptions.

Power of avoiding the double duty by making a return after

furcharge, with
an affidavit
annexed.

livery of such notice may make out and deliver to the surveyor or inspector who shall have delivered the notice of furcharge, a true and complete schedule of the annual value, as the same ought to be estimated according to this act, of all the property charged thereby, and also a true and complete schedule of the amount of annual profits however arising, and which ought to be assessed by and under the commissioners of and in the district where such furcharge shall be delivered, in such form as shall be directed under this act, and as the case may require, so that he may from such schedule so delivered be charged the full sum at which he ought to be charged in such district: provided always, that to every such schedule there shall be annexed an affidavit in writing to the effect herein-after mentioned; and if the said surveyor or inspector shall be satisfied with such schedule and affidavit, then he shall certify such return and affidavit to two or more of the said commissioners respectively, with the amount of the duty to be charged, who shall thereupon cause the assessment to be made according to such certificate, and the same rate of duty as set forth in the respective schedules mentioned in this act, to be charged on the person making such return without further trouble or delay; but if upon examination of such schedule, or such affidavit, the said surveyor or inspector shall see just cause to object thereto, he shall thereupon certify such return and affidavit, together with the cause of his objection, to two or more of the said commissioners respectively, who shall thereupon cause the assessment to be made according to such last-mentioned certificate in the amount of the duty at which such person shall be furcharged, and from which furcharge no abatement shall be made on any pretence, unless on appeal as herein-after is directed, of which certificate notice shall be given by the surveyor or inspector to the person to be charged thereby.

The form of
affidavit.

By *s. 169.* Every such affidavit shall alledge and declare, in substance or to the effect as follows; that is to say, that "the return to which this affidavit is annexed, is a full perfect and complete return of all matters and things required of the said deponent by this act, to the best of his judgment;" which affidavit may be taken before any one or more of the commissioners acting for the place where the furcharge shall be made, or where the party furcharged shall reside, and shall be signed by the party making the same: provided always, that an appeal may be made from any assessment or furcharge as aforesaid, and heard and determined under the regulations of this act.

Persons over-
rated may appeal
to the commis-
sioners.

By *s. 170.* If any person shall think himself overcharged or over-rated by any certificate of any inspector or surveyor as last aforesaid, or by any assessment to be made in pursuance of

of such certificate, it shall be lawful for him to appeal to the said commissioners, in such manner as he is authorized to appeal from any original assessment or surcharge by the regulations of this act.

And by *f. 171.* Upon the hearing of any such appeal, or the appeal against any original assessment or surcharge, the appellant shall in all cases produce before the said commissioners a true and complete schedule as directed by this act as aforesaid, and as the case may require, and if required so to do shall verify the same upon his oath or affirmation.

On appeal
schedule to be
produced.

By *f. 172.* Upon every surcharge allowed upon appeal by the said commissioners upon the certificate of the surveyor or inspector as directed by this act, in cases where no such affidavit shall have been delivered as is before required, or the commissioners shall be dissatisfied with the same, the assessment shall be made in double the rates of duty prescribed in the said schedules respectively on the amount of the duty so surcharged, which sum shall be added to the assessment and collected and levied therewith: provided always, that upon every appeal, if the affidavit before required shall have been delivered, and if the said commissioners shall be satisfied therewith, and shall be of opinion that there was any reasonable cause of controversy on the part of the appellant on the subject matter of appeal, and that the party hath not been guilty of any wilful default, nor wilfully done any act with intention to defraud the revenue, it shall be lawful for the said commissioners who shall have determined the said appeal, although they shall confirm or allow the surcharge, or a part thereof only, at the same time to remit and strike off the whole or any part of the double duty; and the overplus of the sum so charged above the said rate of duty, and which shall not be so remitted or struck off as aforesaid, shall be paid to the receiver general to the use of his majesty, his heirs and successors; which increase of duty made by occasion of such surcharge, together with the overplus aforesaid above the said rate of duty, and all other increase of duty occasioned by the surcharge or information of any inspector or surveyor under this act, the commissioners for executing this act who shall have confirmed such surcharge or made such increase, or any two or more of them, shall at the same meeting certify under their hands to the commissioners for the affairs in *England*; and the said commissioners shall have authority to direct the said receiver general to pay to the said surveyor or inspector out of the said increased duty and overplus aforesaid, in such proportions as they shall think proper, any sum of money, not exceeding the rate which shall have been settled by the lords commissioners of the treasury, or the high treasurer

Surcharges, if
confirmed, to be
in double duty
in certain cases.

for the time being, as a reward for their labour and diligence in making such surcharges; and the certificate of the said commissioners for the affairs of taxes, or any two or more of them, shall be a warrant to the said receiver general to pay the same.

(xiv.)—*Exemptions.*

Persons whose
income doth not
exceed 50l. to
be exempt.

By s. 173. It is provided and enacted, that every person whose annual amount of income, estimated according to this act, shall be less than one hundred and fifty pounds, and who shall be assessed to the duties charged on the properties or profits described in the schedule of particulars contained in this clause, or any of them, or who shall be liable to the payment of the duty by way of deduction in respect thereof, shall be entitled, on proving as herein-after mentioned that such income doth not exceed fifty pounds, to be exempted from the payment of the duties charged, or such of them as shall have been charged on the properties or profits so described in the said schedule of particulars, or any of them, and from all payments by way of deduction in respect of any properties of the same description; and in all cases where such income shall exceed fifty pounds, and shall be less than one hundred and fifty pounds, such person shall be entitled to an allowance out of the duties charged on the properties or profits so described in the said schedule of particulars, or any of them, or payable in respect thereof as aforesaid, at and after the rate of one shilling for every twenty shillings by which the income, proved and allowed according to this act, shall be less than one hundred and fifty pounds, and in that proportion for any lesser sum than twenty shillings, provided that the duties charged on the properties or profits so described or payable in respect thereof as aforesaid, shall be sufficient for that purpose, and so far as the said allowance can be satisfied out of the said duties.

Allowances for
income under
50l.

xiv. (a.) *Schedule of the particulars of the properties and profits on which the aforesaid allowances, in reduction of the duties are to be taken in the cases mentioned in this clause.*

First.—Profits arising from any properties belonging to any ecclesiastical person in right of his church or by endowment, or from any properties mentioned in No. III. of schedule (A.) and stipends of licenced curates:

Second.—Profits arising from the occupation of lands and tenements, chargeable under schedule (B.):

Third.—Profits arising from any trade manufacture adventure or concern in the nature of trade, or from any profession employment or vocation, chargeable under the first or second cases of schedule (D.):

Fourth.—Profits arising from any office or employment of profits chargeable under schedule (E.):

Fifth.

Fifth.—The amount of any pension or stipend payable out of the public revenue, chargeable under schedule (E.):

Sixth.—The amount of any annuity or annuities for life or for terms of years, arising out of any kind of property whatever, or out of profits which respectively belong to any other person or persons bodies politic corporations companies or societies whether corporate or not corporate, or which shall be limited for the use of or in trust for any such other persons bodies corporations companies or societies to take effect after the determination of such annuity or annuities; provided that such annuity or annuities shall have been charged on such property or profits by any will or deed whereto the claimant shall not be a party and shall be payable by virtue of such will or deed to such claimant; provided also, that all such claims shall be made and proved according to the directions of this act: provided also that no exemption or allowance shall reduce, alter, or in any manner affect or impeach the rate or amount of duty charged or to be charged on any kind of property or profits not included in the above schedule of particulars.

xiv. (b.) *Of the declaration to be made.*

By s. 174. In order that due provision may be made for granting the exemption and allowances in this act authorized, it is further enacted, that every person claiming such, in respect of the duties to be so assessed upon him, shall within the time limited by this act for making returns of the duty chargeable by this act (or within such further time as the said commissioners shall for special cause assigned allow) cause to be delivered to the assessor of the parish or place where such claimant shall reside, and not elsewhere, except as herein-after is mentioned, a declaration in writing, signed by him, of his intention to claim such exemption or allowances, which declaration shall be in such form as may be directed under this act, declaring therein the particular source from whence such income shall arise, and the particular amount arising from each source, and also every sum of annual interest, or other annual payment reserved or charged thereon, whereby the income shall or may be diminished, to which declaration every surveyor or inspector shall have access to take copies of or extracts from under the like powers as in other cases; and in every case where the surveyor or inspector shall not object to such declaration within forty days, or such further time as the commissioners, on just cause, shall allow to him to make such objection, it shall be lawful for the said commissioners to grant such exemption or allowances, as the case may require, in the manner herein-after directed, without altering the assessment; but

Declarations to be made by persons claiming abatements to the commissioners, who may allow the same!

but in case the surveyor or inspector shall object thereto in writing, suggesting that he hath reason to believe that the income of such person is not truly declared therein in any particular, or not conformable to the assessment thereupon, then, unless the major part of the commissioners present at the time of taking such objection into consideration, shall see cause to disallow such objection, the merits of such claim shall be heard upon appeal, subject to such rules and penalties, as other appeals under this act are directed to be heard and determined.

xiv. (c.) In respect of annuities.

Persons claiming abatements to deliver in a declaration, specifying the amount of payments.

And by s. 175. Every person claiming such exemption or allowance in respect of any deductions to which any annuity described in the said schedule of particulars and payable to such claimant, may be liable, shall within the like period and in like manner as aforesaid, cause to be delivered to the commissioners for general purposes in the district where such person shall reside, a further declaration of his intention to make such claim; and every such last mentioned declaration shall specify the annual amount of every such annuity, and the name of the person by whom the same is payable; which last mentioned claim shall be proceeded upon in like manner as is before-directed; provided that no such last mentioned claim shall be allowed in respect of any annuity described in the said schedule of particulars before set forth, unless the claimant shall produce to the said commissioners the will or deed under which such payment as aforesaid shall be to be made, or such parts thereof as relate to such annuity, or an attested copy of such will or deed, or such parts thereof as aforesaid, on which no stamp shall be required; and no such claim shall be allowed until such will or deed, or such attested copy thereof, or such parts thereof, shall have been seen and examined by the commissioners for special purposes appointed under this act, and such claim shall have been sanctioned by the determination of the said commissioners for special purposes, or any two or more of them, as coming within the description and the true meaning of this act; and in case any such last mentioned claim shall be sanctioned as aforesaid by the commissioners for special purposes, the commissioners acting for such district shall proceed to determine upon such claim, and on allowance thereof to grant to such claimant a certificate, to be made out in such form as may be directed under the authority of this act; and in every case where such claimant shall derive his income, for which such exemption or allowance is made, from annual payments from different persons, a separate certificate in the form before prescribed shall be delivered for each of such separate payments, in a due proportion

Commissioners to grant certificate of exemption or abatement, and separate certificate for separate amounts due from different sources.

portion to the amount of each payment respectively, in order that each such certificate may be separately applied as herein directed; and if any person shall be guilty of any fraud or contrivance in making such claim, or in obtaining any such exemption or allowance, or shall fraudulently conceal, or untruly declare any income or amount of income, or shall make a second claim for the same cause, he shall forfeit the sum of fifty pounds, and treble the duty chargeable in respect of all the sources of income of such person, and as if such claim had not been allowed.

Persons guilty of fraud in making claims or obtaining certificate to forfeit 50l.

xiv. (d.) *Rules for estimating.*

By s. 176. The income on which an exemption or allowance may be granted shall be estimated according to the following rules, which shall be deemed a part of this act, as if the same had been inserted under a special enactment.

Rules for estimating income on which exemptions or allowances may be granted.

1.—In cases of aggregate income arising from two or more sources, where any part thereof shall arise from property or profits not included in the particulars for which an exemption or allowance is directed to be made, the amount of duty hereby charged on such property or profits shall be deducted from the estimate of income, and the amount of income shall be estimated after such deduction made; provided that the charge on property or profits, not included in the said particulars, shall not be affected by such deduction or estimate, but shall be charged and levied as if no such claim had been made:

Aggregate income.

2.—The income arising from the occupation of lands or tenements, if in *England*, shall be estimated for the purpose of granting such exemption or allowance at three-fourths of the annual value thereof, on which the duty under schedule (B.) hath been charged, and if in *Scotland* at one half of such annual value; and the income arising from a lease of or composition for tythes shall be estimated at one-fourth of such annual value thereof; and the exemption or allowance in respect of such income shall be granted on the amount so estimated:

Income from land.

3.—In cases of partnership, none but an acting partner shall be admitted to claim such exemption or allowance, and in case only such partner shall have declared his proportion or profits in order to a separate assessment:

Partnership.

4.—In cases of joint occupancy of lands, none but the occupiers personally acting therein shall be admitted to make such claim, and in cases only of such separate assessments as aforesaid:

Joint occupiers of lands.

5.—No person acquiring an income by means of the occupation of lands, or of any concern in working the soil, or by means of any trade manufacture adventure or concern in the nature of trade, or of any profession employment

Person not to be denied the benefit of claims in certain cases.

ployment or vocation, shall be denied the benefit of such claim by reason of the property or capital *bona fide* employed in or about the concern, or under pretence that the profits arising therefrom are derived from the property or capital so employed.

xiv. (c.) Exemptions to artisans.

Exempting artisans whose wages do not exceed a certain sum per week, and not having other income.

By *s.* 177. Whenever the income of any person shall have arisen wholly from labour at daily or weekly wages, or by the task or piece, either as a labourer artisan or handicraftsman mechanic or manufacturer and the wages received shall not have exceeded in any one week in the preceding year, or in any subsequent week previous to the assessment, the sum of thirty shillings, or other greater wages or earnings from employment in husbandry in time of harvest, and the same shall be proved by the declaration in writing of such person signed by him in his own name in the form and manner directed in this act, and by the certificate of any person by whom such wages or any part thereof shall have been paid, certifying the rate of such wages and the duration of service, and his belief in the truth of the matters of such declaration as far as they may be within his knowledge, and in case it shall appear that such person shall not be in the receipt of any sum of money arising from any other source, then and in every such case it shall be lawful for the respective commissioners and others acting in the execution of this act without further account to adjudge the income so arising for the preceding year as not amounting to fifty pounds, and to grant an exemption from the said duty in respect of such income: provided always, that nothing herein contained shall be construed to restrain any such person from claiming and proving his claim to any other exemption or allowance granted by this act in the manner directed by the preceding clauses of this act: provided also, that no labourer artisan handicraftsman mechanic or manufacturer shall be excluded from the benefit of such exemption in respect of such wages as aforesaid by reason of his deriving a part of his income from property not exceeding the annual value of five pounds.

xiv. (f.) Insurance on lives.

Premium for insurance on lives to be allowed.

By *s.* 178. In case any person shall have duly claimed and proved his title to such allowance as aforesaid for income less than one hundred and fifty pounds *per annum*, and such person shall have made insurance on his life or on the life of his wife, the amount of the annual premium whereon shall have been included in the amount of such income, there shall be granted out of the duties so charged a further allowance, bearing the like proportion to the amount of duty charged as the amount of such premium bears to the amount of income proved.

By

xiv. (g.) *Where a claim shall be made.*

By s. 179. Every such claim shall be made to the commissioners of the district where the claimant shall reside, whether such claimant shall be personally charged in such district or not : except where the whole income of the claimant shall arise from an office or employment of profit, the duties whereon are cognizable before the commissioners of a department of office, or from a pension or stipend, in all which cases the claim may be made to, and allowed by the commissioners of such department of office wherein the said duties are cognizable under the regulations of this act ; and if such claimant shall be out of *Great Britain* an affidavit stating the several matters required by this act, taken before any person having authority to administer an oath in the place where such claimant shall reside, in any matter relating to any part of the public revenue of *Great Britain*, may be received by the respective commissioners for executing this act, in relation to the assessment on which such claim shall be founded.

Claim to be made where the claimant resides ; non-residents to claim by affidavit.

Rules for granting exemptions and allowances.

By s. 180. The exemptions and allowances granted under the authority of this act shall be granted according to the following rules, and as the same are applicable to the case in question, which rules shall be deemed a part of this act as if the same had been inserted under a special enactment.

Exemption and allowances granted by following rules.

1.—In all cases where claims shall be made in respect of the gross charge on property or profits of the claimants, arising wholly in the same parish or place where the claimant shall reside, the commissioners shall cause an entry thereof to be made in their books, with the names of the claimants, and the amounts of their respective incomes as proved, and the amount of the sums allowed to each claimant ; and in cases of exemption shall exclude the whole sum from the net assessment, and in cases of allowances shall include in the net assessment the difference only between the gross assessment and the sum allowed, and shall cause certificates of the net assessments to be delivered to the collectors, but without discharging in any other manner the gross assessment or striking the same out of their books :

How granted on income wholly arising in the parish of residence.

2.—In all cases where any such claim as aforesaid shall be made, in respect of the charge on property or profits of the claimants, arising in different parishes or places in the same district, and by the same commissioners, or partly on such property or profits, and partly in respect of any annuity or annuities arising out of property or profits charged upon any person or persons other than the claimant, and the assessment on such claimant in any one parish or place in the district where such claim shall be made,

How granted on income wholly arising in the different parishes in the same district ; or in different districts.

shall be sufficient to answer the amount of the allowance made to such claimant, it shall be lawful for the commissioners to allow the whole sum in such one parish or place, and to proceed therein as in the first rule, as if the whole property or profits of the claimant had arisen in such one parish or place; and where one such assessment shall not be sufficient, they shall apportion the allowance between two or more such assessments, in such manner as they shall think fit, without regard to the proportion in which such property or profits in each such parish or place shall have been assessed, and so as to give relief to the party in the most convenient manner, and shall make their entries of discharge in the books of the respective parishes accordingly; and where such claim shall be made in respect of the charge on property or profits of the claimant, arising in different parishes or places, situate in different districts of commissioners, and the assessment or assessments on such claimant in the district where such claim shall have been made shall not be sufficient to answer the allowance to be made to such claimant, then the commissioners by whom the claim shall have been allowed shall grant a certificate for such part of the allowance as cannot be made in that district where the claim was so allowed, and, in case the deficiency can be satisfied out of any assessment on the said claimant in any other district, shall grant a certificate thereof stating the amount of the allowance to be made in such other district; all which certificates shall be delivered to the collectors of the respective parishes where the assessments to which such certificates relate shall have been made; and the collector or collectors shall receive such certificates as cash, and shall act in all respects as if the amount of the allowance in each parish or place had been in proportion to the assessment therein, and the certificate shall be returned to the commissioners of the same district in the manner directed by the seventh rule herein after set forth, in order that the said commissioners may enter the same in their books in discharge of the sums so certified, and as if the same allowances had been granted by them in the manner directed in other cases falling within the said first and second rules:

Where the income arises from annual payments from property charged on others, which cannot be satisfied out of any assessment on the party, a certificate to be granted.

- 3.—In all cases where any such claim as aforesaid shall be made in respect of any annuity or annuities before described, arising out of property or profits charged upon any person or persons, other than the claimant, either wholly or in part, and which cannot be satisfied out of any assessments made on the claimant, according to the second rule, or in respect of any such annuity or annuities charged on public annuities dividends and shares, the duty whereon shall be paid by the respective persons and corporations

corporations entrusted with the payment of such public annuities dividends and shares, a certificate signed by the commissioners granting the allowance, shall in each case be delivered to such claimant in respect of such annuity or annuities, specifying the amount of income of the claimant, the amount of such annuity or annuities, and by whom payable, and the amount of the allowance in respect of such annuity or annuities :

4.—Every certificate granted according to the third rule, except for annuities payable out of public annuities as aforesaid in the actual receipt of the annuitants, shall be delivered by the claimant to the person by whom the annuity or annuities mentioned therein shall be payable at the time of such payment, and shall be an authority to the claimant to demand the amount of such allowance, together with the residue of such annuity or annuities, without further deduction thereout than such sums; if any, as shall after such allowance remain chargeable in respect of such annuity or annuities, and every such certificate granted in respect of any annuity payable out of public annuities as aforesaid in the actual receipt of the annuitants, shall be delivered by the claimant to the collector or collectors of the parish or place where such annuitants shall reside, by indorsement under the hand of such person, and shall be received by such collector as cash, and applied by him according to the sixth rule herein-after mentioned :

Certificates to be delivered to the party making the payment,

5.—Every certificate granted under the third rule, and delivered to the person mentioned therein as liable to the payment of such annuity or annuities, shall be transferred to the collector or collectors of the parish or place where such person shall reside by indorsement under the hand of such person, and shall be received from such person by such collector as cash on account of such person indorsing the same :

and by him to the collector.

6.—Every certificate granted under the authority of this act, and delivered to any collector or collectors as aforesaid, either by the commissioners, or the person named therein, shall be applied in discharge or satisfaction of so much of the duty charged on and then payable by the person delivering the same or on whose account the allowance was granted ; and in case the assessments on such persons shall have been fully paid and satisfied before the delivery of such certificates, or in case such assessment shall be insufficient, or no such assessment shall have been made on such persons in the parish where such certificates shall be delivered, the said collector or collectors shall pay to the persons, transferring such certificates, by indorsement, the amount of the allowances granted thereby, or so much thereof as shall be necessary :

Certificates to operate by satisfying the assessment unpaid, or to entitle the bearer to repayment.

which is to be

7.—Every

Certificates to be delivered to commissioners by collector, who shall receive a schedule of discharge.

7.—Every certificate transferred to any collector or collectors by indorsement shall be numbered progressively by him or them, and before the accounts for that year shall be closed shall be delivered to the clerk of the commissioners of the district by the respective collectors, taking the clerk's receipt for the same, who shall enter the same in a book to be provided for that purpose in their orders as numbered progressively; and the said commissioners shall cause a schedule thereof to be carefully prepared for each parish or place in their district, which shall be signed by them, and delivered to the receiver general in discharge of so much of the assessments in such parishes or places respectively; all which schedules, made and signed under the authority of this act, shall be allowed in the accounts of the respective receivers general:

Claims in respect of annuities not to be admitted, unless the claimant shall have returned a statement of his whole income.

8.—No claim in respect of any annuity or annuities shall be admitted, unless the claimant shall have duly returned, or caused to be returned within the time in this act limited, and in the manner herein directed, a full true and perfect statement of the whole of his or her income, estimated according to this act to the best of his or her judgment or belief, from whatever source or sources the same may arise, and also a declaration annexed to such statement of his or her intention to make such claim.

xiv. (h.) *Of coparceners.*

Joint tenants, &c. may severally claim abatements.

By *f. 181.* Coparceners, joint tenants or tenants in common, of the profits of any property whatever, and any joint tenants or tenants of lands or tenements in partnership, being in the actual and joint occupation thereof in partnership, and entitled to the profits thereof in shares, and personally labouring therein, or managing the same; and any partners carrying on trade, or exercising any profession together, and entitled to the profits thereof in shares, and personally acting therein, may severally claim such exemptions or allowances, according to their respective shares and interests in the manner before directed; and such claims being duly proved to the satisfaction of the commissioners to whom the same are made, may be proceeded upon as in the cases of several interests: provided always, that the profits so arising shall not in any case be charged separately to the duty in respect of the occupation of lands, where lands shall be let, or under-let without relinquishing the possession by the lessor, or where the lessee or lessees, tenant or tenants, shall not be exclusively in the possession and occupation of the lands so let.

Except farms in one demise, or not in exclusive possession.

xiv. (i.) *Claims by agents, &c.*

Commissioners for offices may proceed with claims to ex-

By *f. 182.* The respective commissioners for the departments of office, before whom any claims for exemptions or allowances

allowances in respect of pensions or stipends payable at those offices respectively shall be made, may proceed therein upon reference to the documents in their respective offices, without requiring the production by the claimant of any grant of such pensions or stipends, or other documents, authorizing such payments, and without obtaining the judgment and determination of the commissioners for special purposes therein.

emptions, or allowance for pensions or stipends.

By *f.* 183. Any such claim or appeal may be made by any guardian trustee attorney agent or factor on account of others, in any case where satisfactory proof shall be made that the party claiming such exemption or allowance is unable to attend in person, or such claim may be made by the several persons acting in any of the characters herein-before described, in such manner as they may act for others, for the purpose of being assessed on their account in the first instance as herein-before directed.

Claims may be made by agents or trustees on account of others.

By *f.* 184. In every case of a claim of exemption or allowance as aforesaid, if the commissioners for general purposes shall think proper to require a verification of the declaration to be so delivered as aforesaid, or of the statement delivered by the party, or therein contained, or any part thereof, they shall give notice thereof to the person claiming such exemption or allowance, to appear before them to verify such declaration or statement; and every person to whom such notice shall be given, shall appear before the said commissioners, and on oath or solemn affirmation to be administered by one or more of the said commissioners, to verify the contents of his declaration or statement, and which oath or affirmation shall be, that the contents of such declaration are true, to the best of his judgment or belief, and which oath or affirmation shall be signed or subscribed with the proper name of the party taking the same; provided such person shall be at liberty to amend such declaration or statement, or any part thereof, before he shall be required to take such oath or affirmation as aforesaid.

Claims to abatements to be verified on oath, if required.

And by *f.* 185. If in the course of any inquiry before the said respective commissioners for the purpose of granting any exemption or allowance authorized by this act, they shall think it necessary to ascertain the amount of the charge on any person out of the limits of the city town or place for which they shall act, then the commissioners for the affairs of taxes shall, on a certificate thereof, transmit such certificate to the respective commissioners acting for the division or place where such person has been assessed or charged to such other duties; and the said last-mentioned commissioners shall, on the receipt of such certificate, inquire into the amount of the sum with which such person has been charged

Mode of enquiring into amount of the charge on property in other districts.

to such duties within the limits of the division or place where such last-mentioned commissioners act; and having satisfied themselves of such sum shall transmit a certificate thereof under the hands of any two or more of them to the said commissioners for the affairs of taxes, to be laid before the said commissioners making such inquiry as aforesaid, to the end that such person may be justly charged, and such exemptions or allowances may be granted as directed by this act.

(xv.)—*Of double assessments.*

Relief from double assessments.

By s. 186. Whenever any person shall have been assessed in one district to the duties whether charged on such person on his own account, or in any of the characters hereinbefore described on the behalf of any other person, and shall have been again assessed in another district for the same cause and on the same account, it shall be lawful for such person to apply to the commissioners for general purposes acting in or for the division or place for which such persons shall have been so assessed, for the purpose of being relieved from such double assessment, and such commissioners acting for the division or place within which such person or persons shall have been first assessed to the said duties, shall, upon application, cause to be given a certificate under the hands of any two of such commissioners of the amount of the assessment there made, which certificate shall be given *gratis*; upon the production of which certificate to the commissioners for general purposes acting for such other district within which such person shall have been assessed for the same cause, and on the same account, such last mentioned commissioners shall cause the double assessment made in such district, or such part thereof for which such double assessment shall be made, to be vacated, so that such person may not remain charged by more than one assessment for the same cause, and on the same account.

(xvi.)—*Of the mode of collecting duties, &c., &c.*

Commissioners to enter their assessments in books and send accounts to the tax office.

By s. 187. The commissioners for general purposes, acting in relation to the duties contained in schedule (D.) shall, in their respective books of assessment, cause to be entered the several amounts of the sums assessed by them; and they shall from time to time cause to be made out, and transmitted to the commissioners for the affairs of taxes, accounts of the amount of duty assessed by them, distinguishing the amount charged on each person, which accounts shall severally be made out, with the particulars required by this act; and they shall also from time to time make out or cause to be transmitted to the commissioners for the affairs of taxes,

lists,

lists, containing the name description and place of residence of every person assessed by them respectively, as soon as the same conveniently can be done, which lists shall be made out according to an alphabetical arrangement of the respective parishes or places of residence in their respective districts.

By *s.* 188. The respective commissioners, or any two or more of them, executing this act in relation to the aforesaid duties, or any of them, are hereby respectively required, for the districts for which they act, within one calendar month after the first day of hearing appeals, all appeals then made being first determined, to issue out and deliver to the respective collectors duplicates of the aforesaid duties charged at the respective rates mentioned in the respective schedules herein recited, together with their warrants, as directed by the said recited acts respectively, for the speedy and effectually levying and collecting the said duties as the same shall become payable by quarterly instalments, in the respective parts of *Great Britain* as herein directed, distinguishing the amount charged on each of the said recited schedules; and such part thereof as cannot be levied and collected according to the powers of this act, in the parish or place where the same are charged, or by certificate in any other parish or place according to the directions of the acts herein-mentioned, shall be recoverable as a debt upon record to the king's majesty, his heirs and successors, with full costs of suit, and all charges attending the same; and when so recovered the said duties shall be paid to the receiver general, in aid of the parish or place answerable for the same.

Commissioners
to issue their
warrants of
collection

By *s.* 189. The parish or place in which any assessment shall have been made, or shall be made of the aforesaid duties by the commissioners for general purposes, under any of the schedules marked (A.) (B.) or (D.) shall be answerable for the amount of the duties which shall so have been, or be charged in such parish or place, and for the said duties being duly demanded of the respective persons charged therewith, according to the regulations contained in the said recited acts respectively, by the collector appointed for such parish or place, and also for such collector duly paying the sums by him received to the receiver general of the said duties according to such regulations.

Parish to be
answerable for
collectors.

And by *s.* 190 Any of the arrears of the said duties arising from the default as aforesaid, or by the failure of any collector for which any parish or place as aforesaid shall be answerable, shall be assessed within or upon such parish or place as soon after such default shall be discovered as conveniently can be done, and shall be charged on the amount of the assessment which shall be made for the same duties in the year commencing from the the fifth day of *April* preceding the time of making such re-assessment, by duly appor-

Arrears to be
re-assessed.

tioning the amount of such arrear amongst the several persons assessed in that year, in the assessment of the same duties on which such arrear shall have accrued, according to the amount of each person's assessment therein, as nearly as the case will admit, and by the like rules by which the original assessment was made, to be raised and levied in such manner as any assessment may be by virtue of this act.

Commissioners to adjust times of payment, if the appointed days are elapsed, and sums to be paid not less than the amount of two instalments on each day.

And by *s. 191*. If it shall happen that this act cannot be executed previous to the time appointed for the payment of the first or any subsequent instalment of the said last mentioned duties, or within the year of assessment, it shall be lawful for the commissioners for general purposes who shall have made or allowed any assessment after the period appointed for any such payment, which they are hereby declared to be competent to do whenever the same shall be necessary, to settle and adjust at what time and in what proportions the instalment or instalments, of which the time or times for payment shall then have elapsed, shall be paid, in such manner as to them shall appear just and reasonable, regard being had to the number of days appointed for the payment of instalments then to come (if any) in the year of making the assessment; provided that on or before every quarterly day of payment as herein mentioned, after the making such assessment in the same or any subsequent year, the said commissioners shall direct at least the amount of two quarterly payments to be made until all arrears, either for that or any former or subsequent year, shall have been completed.

Assessments to be for one year payable by four instalments.

By *s. 192*. Every assessment to be made under this act within the year appointed for making the same, shall be deemed to be for the current year, and shall be in force for such year; and every assessment made after the expiration of any year in which the same ought to have been made, shall be deemed to be for the whole of the year current when the assessment ought to have been made, and such year shall commence from the fifth day of *April* one thousand eight hundred and six, for the first assessment, and for every subsequent assessment during the continuance of this act from the fifth day of *April* in such year, and the said duties which shall be charged in *England, Wales, and Berwick upon-Tweed*, except where the same shall be detained and stopped at the respective offices, shall be payable in each year by four quarterly instalments at the times following; *videlicet*, on or before the twentieth day of *June* for the first quarterly instalment, on or before the twentieth day of *September* for the second quarterly instalment, on or before the twentieth day of *December* for the third quarterly instalment, and on or before the twentieth day of *March* for the last quarterly instalment

instalment in each year; and in *Scotland*, the said duties shall be payable by two half-yearly instalments; *videlicet*, on or before the twentieth day of *September* for the first half-yearly instalment, and on or before the twentieth day of *March* for the last half-yearly instalment, the payment thereof for the first assessment to be regulated as to the proportion of the sums and times of payment by the respective commissioners, pursuant to the directions herein-before contained.

By *s.* 197. If any error in an assessment or any part thereof shall be made upon the profits or gains arising from any property, or from any office or employment of profit which shall have been otherwise charged, it shall be lawful for the said commissioners acting for general purposes, in relation to the duties contained in schedule (D.) on due proof thereof to their satisfaction, to cause such assessments on such part thereof as shall be so doubly assessed, to be vacated and which proof shall be either by a certificate of the assessment made on such property, or on such office or employment, under the hands of two or more of the commissioners by whom such last-mentioned assessment shall have been made, and that the same is included in such last mentioned assessment, or by other lawful evidence given on those facts, on the oath or oaths of any credible witness or witnesses; and whenever such commissioners shall certify to the commissioners for the affairs of taxes, that such double assessment hath been made, and is not vacated, and that payment hath been made of both assessments, it shall be lawful for the said commissioners for the affairs of taxes, to order and direct the receivers general, who shall have received the sums so doubly assessed, to repay the same to the party, which order shall be an authority to such receiver general to repay the same, and such re-payment shall be allowed in his accounts.

Commissioners acting in relation to the duties in schedule (D.) may rectify assessments when made upon property which shall have been otherwise charged under this act.

By *s.* 198. In the computation of duty to be made under this act, in any of the cases before mentioned, either by the party making the same, or by the respective commissioners, it shall not be lawful to make any other deductions therefrom than such as are expressly enumerated in this act, nor to make any deduction which by any of the rules contained in the said schedules or in this act, are directed not to be allowed or made, nor to make any deduction on account of any annual interest annuity or other annual payments to be paid to any person out of any profits or gains chargeable by this act, except the interest of debts due to foreigners not resident in *Great Britain*, in regard that a proportionate part of the duty so to be charged, is allowed to be deducted, on making such payments; nor to make any deduction from the profits or gains arising from any property herein described, or from any office or employment of profit on account of

What deductions shall not be allowed in making estimates.

diminution of capital employed, or of loss sustained in any trade manufacture adventure or concern, or in any profession employment or vocation.

Special commis-
sioners to certify
allowances
granted by them
to receiver
general for
payment.

By s. 207. Where any allowance mentioned in number VI. schedule (A.) shall be granted by the commissioners for special purposes, to be appointed under the authority of this act it shall be lawful for such commissioners, or any two or more of them, to certify the same to the receiver general of the county or place where the property hospital school or alms house in respect of which such allowances shall have been granted, is situate; and the certificate of such commissioners shall be an authority to every such receiver general to pay the amount so certified to the party entitled thereunto, and shall be a discharge to such receiver general for such payment; and where such property and such hospital school or alms house shall be in different counties, it shall be lawful for the said commissioners to certify the whole amount in the county where the greatest assessment of the property has been made, or where such hospital school or alms house is situate.

No person to
be exempt for
letters patent.

By s. 216. No letters patent granted by his majesty or any of his royal progenitors, or to be granted by his majesty to any person or persons cities boroughs or towns corporate within this realm, of any manner of liberties privileges or exemptions from subsidies tolls taxes assessments or aids, nor any statute granting any salary annuity or pension, to any person or persons free of any taxes deductions or assessments, shall be construed or taken to exempt any person or persons city borough or town corporate, or any of the inhabitants of the same, from the burden and charges of any of the said duties, and all *non-obstantes* in such statutes or letters patent made or to be made in bar of this act, are hereby declared to be void and of none effect; any such statutes letters patent grants or charters or any clause of *non obstante*, or other matter or thing therein contained, or any law or statute to the contrary notwithstanding.

(xvii.)—*Of changing residence.*

• Notices to be
given from time
to time to resi-
dents who have
not been before
charged.

By s. 193. If any person shall come into any parish or place wherein such person shall not have been before charged to the said duties contained in any of the said schedules, for the said year, the assessor collector or inspector or surveyor, shall give or leave notice in writing to or for every such person so residing within the limits for which such assessors collectors inspectors or surveyors respectively act, to make out and deliver within fourteen days next ensuing the day of giving such notice, a declaration in writing signed by him with his own proper name, which shall specify the name of the parish or place, county or counties wherein such person shall

shall have been assessed as aforesaid for such year, and also to produce the certificate of such assessment, or in default thereof to deliver a statement for the purpose of being assessed in such parish or place; and if any such person as aforesaid shall neglect or refuse to make out and sign and deliver such declaration or statement as aforesaid, within the time before mentioned, or shall make any false or untrue return therein in any particular thereof, every such person shall for every such offence forfeit and pay a sum not exceeding twenty pounds, and when in any case it shall not appear in the assessment of any parish or place for that year, that any person or persons residing or being therein, shall have been assessed to the said duties in the same parish or place, then and in such case it shall be lawful to the respective commissioners acting for the said district, and they are hereby required to proceed in manner before directed, to assess such persons to the said several duties, or either of them, in like manner, in every respect, as if such person had been resident in such parish or place at the time of the publication of notices as directed by this act, unless such person shall prove to their satisfaction that he or she hath been duly charged in some other parish or place, and hath paid or satisfied the duties so charged; and if any person before or after notice given to return a statement as aforesaid, shall remove out of such parish or place without returning such statement, or before an assessment shall be made on him with intent to evade an assessment, or if any person being assessed to the said duties shall remove out of the parish or place where he shall have been assessed to the said duties, without first paying or discharging all the said duties charged upon him which shall then be due and payable, or without leaving in such parish or place sufficient goods and chattels whereon the said duties in arrear may be levied, and the same shall remain in arrear for the space of twenty days after the time appointed by this act for payment thereof, every such person shall for every such offence forfeit and pay (over and above the said duties so left unpaid as aforesaid) the sum of twenty pounds; and in every such case, and also in every case where any person shall reside in any other parish or place, then the parish or place where the charge shall be made on him in pursuance of this act, and the same shall be certified to the commissioners for the affairs of taxes, to be in arrear and unsatisfied in the whole or in part, it shall be lawful for the said commissioners for the affairs of taxes to certify to the commissioners of the district within which such person shall reside, the whole amount of the assessment made upon such person, and such last-mentioned commissioner shall thereupon issue a warrant of distress for the recovery of the whole duty that shall then have been assessed on such person, together with the costs and

Persons coming to reside in a district on notice being left with them, to declare where charged, or deliver a statement for the purpose of being assessed, under a penalty.

Removing out of a parish or place without first discharging the assessment or not leaving sufficient goods to satisfy the arrears, to forfeit twenty pounds.

Arrears to be levied by distress in the district where the party reside; and if sufficient effects cannot be found, the deficiency to be recovered as a debt on record.

charges attending the same; and if goods or chattels cannot be found whereon such distress shall be fully made, then and in every such case the whole of such arrear of duty, and costs and charges as aforesaid, or such part thereof as cannot be levied and collected by distress as aforesaid, shall be recoverable as a debt upon record to his majesty, his heirs and successors, together with all costs and charges attending the same.

Penalty on persons fraudulently changing their residence, or converting property, or delivering false statements.

And by *f.* 196. If any person who ought to be charged as directed by this act, shall, by fraudulently changing or having changed his place of residence, or by fraudulently converting or having converted his property, or any part thereof, or by fraudulently releasing assigning or conveying, or having fraudulently released assigned or conveyed the same, or any part thereof, or by making and delivering any such statement or schedule as aforesaid, which shall be false or fraudulent, or having any property chargeable as last aforesaid, shall fraudulently convert or shall have fraudulently converted the same, or any part thereof, by altering or having altered any security with relation to such property, or by fraudulently rendering or having rendered the same, or any part thereof temporarily unproductive, in order that such person may not be charged for the same, or any part thereof, or by any falsehood wilful neglect fraud covin art or contrivance whatsoever, already used or practised, or to be used or practised, shall not be charged and assessed according to the true meaning of this act, every such person shall, on proof thereof before any two or more of the said respective commissioners for general purposes, acting for the district wherein such person shall be chargeable be charged and assessed double the amount of the charge which ought to have been made on such person if no such charge shall have been made; and if any such charge shall have been made which shall be less than the charge which ought to have been made on such person, then such person shall be assessed and charged over and above such former charge, double the amount of the difference between the sum with which such person shall have been charged, and the sum with which he or she ought to have been charged, to be added to such assessment, and applied as in other cases as aforesaid.

(xviii.)—*Particular relations; see (vii.); (viii. 4.), rules 9, 10, 11; and (ix. 4.), rules 1, 2.*

(xix.)—*General regulations.*

Voluntary contributions may be received at the Bank.

By *f.* 204. It shall be lawful for any person or persons, body corporate or politick, at any time during the continuance of this act, to pay or cause to be paid to the governor and company, or to their cashier or cashiers, or other person

person or persons to be authorized by them, any sums of money as and for a voluntary contribution, for the purpose of carrying on the war; and in such case to require a certificate for the same, acknowledging the payment of such voluntary contribution, which sums to be paid as aforesaid, for which such certificates shall be required, shall be deemed and taken to be voluntary contributions of such persons, body politic or corporate respectively, towards effecting the purposes of this act, and shall be applied as the other monies paid into the Bank of *England* by virtue of this act may be applied.

By *f*. 208. It shall be lawful for any person at any time or times during the continuance of this act, charged to or liable to the payment of any of the duties by this act granted, to pay or cause to be paid to the said governor and company, or to their cashier or cashiers, or other person or persons to be authorized by them, any sum or sums of money on account of such duties, and to require a certificate of such payments; and all sums so paid, not exceeding the amount of such duties, shall be deemed and taken to be on account of such duties, and in advance of the same; and the excess of the sums paid above the amount of the said duties, shall be deemed and taken to be voluntary contributions towards the purposes of this and the said recited act; and the certificates to be given upon the said payments shall, upon delivery thereof to the respective commissioners or at their office, be an acquittance and discharge for so much and such parts of the said duties, as the person delivering the same shall indorse thereon.

Voluntary contributions may be paid at the time of paying the duties into the Bank.

And by *f*. 205 The governors and directors of the Bank of *England* shall open an account in their books with the commissioners of his majesty's treasury for the time being, for each year during the continuance of this act, under the title of "the commissioners of the treasury, on account of contributions granted and allowed by parliament for the year" and shall carry to the credit of such account, all monies arising from the duties charged at the said bank of *England*, and also all the monies authorized by this act to be paid to the governor and company of the said bank of *England*, or to their cashier or cashiers, or other person or persons to be authorized by them, within each such year during the continuance of this act, except such monies as shall be paid at the said bank of *England*, under a certificate lettered or numbered, authorizing such payment in respect of particular assessments as before directed to be placed to another account.

Bank to open an account with the treasury.

And by *f*. 206. Where any person shall pay into the Bank of *England*, or to any receiver general, any sum of money

Power to return money erroneously paid.

money on account of the duties herein recited, and it shall be proved to the satisfaction of the commissioners for the affairs of taxes, that such sum or any part thereof, was so paid by mistake, and is not included in any assessment or charge made of the said duties, and that the same, according to the true intent and meaning of this act, ought to be repaid, it shall be lawful for the said commissioners for the affairs of taxes, or any three or more of them, to certify the same to the cashier or cashiers of the bank of *England*, and to such receiver or receivers general respectively; and the certificate of the said commissioners for the affairs of taxes, shall be an authority to such cashier or cashiers, and to such receiver or receivers general respectively, to repay such sum of money to or for the party who shall have so paid the same, and shall be a discharge to such cashiers and receivers general respectively for such repayment, and shall entitle them respectively to take credit for such payments in their respective books and accounts.

Monies paid to deputy receivers or collectors to be paid to receivers general.

By *f.* 209. The monies which shall, by virtue of this act, be received by any deputy or deputies to any receiver general or by any collector or collectors to be appointed as aforesaid, shall be paid, under the regulations of the said recited acts respectively, to the receiver general appointed or to be appointed by his majesty, his heirs or successors, and at such times and in such manner as is directed by the said recited acts respectively.

Monies stoppt at the receipt of the exchequer and paid at the bank, to be paid over to the proper officer in the exchequer.

By *f.* 210. All monies stoppt at the receipt of the exchequer in pursuance of this act, shall be paid over to the proper officer in the said receipt, to be applied to such services as the other monies paid into the said receipt may be applied; and all the monies paid into the bank of *England*, or there placed to the account of the commissioners of the treasury as aforesaid, and the monies from time to time paid into the said bank of *England* in pursuance of this act, by any person or persons, shall be paid by the cashier or cashiers of the said bank into the receipt of his majesty's exchequer, within one week after such payment or transfer shall be made, for which payment no fee shall be demanded or taken at the said receipt of the exchequer.

Monies arising from the duties to be paid into the exchequer.

By *f.* 215. All monies arising by the said respective duties and contributions (the necessary charges of raising and accounting for the same excepted) shall from time to time be paid into the receipt of his majesty's exchequer at *Westminster*, distinctly and apart from all other branches of the publick revenues; and that there shall be provided and kept, in the offices of the auditor of the said receipt of exchequer, a book or books, in which all the monies arising from the said duties and contributions, and paid into the said receipt as
afore-

aforesaid, shall be entered separate and apart from all other monies paid and payable to his majesty, his heirs and successors, upon any account whatever; and the said monies so paid into the said receipt shall, from time to time as the same shall be paid into the said receipt, be issued and applied to such services as shall then have been voted by the commons of the united kingdom of *Great Britain and Ireland* in the present session of parliament, for the service of the year one thousand eight hundred and six, or shall be voted by the said commons for the service of any subsequent year; and the commissioners of his majesty's treasury now or for the time being, or any three or more of them, or the high treasurer for the time being, are or is hereby authorized and empowered to issue and apply the same accordingly.

By s. 211. The several assessors and collectors shall have three-pence in the pound for what money of the several duties aforesaid the several collectors shall pay to the receiver general, his deputy or deputies, to be divided into each separate collection between the said assessors and collectors, in such proportion as the respective commissioners for general purposes shall order; and for the careful writing and transcribing the said assessments warrants estreats and duplicates in due time, and for the due speedy and effectual executing all matters and things directed to be performed under the said commissioners, and for the bearing and sustaining all incidental expences attending the execution of this act, under the direction of the said respective commissioners in their several districts, the clerk of the respective commissioners, who shall perform the duties of his office within the respective times limited by this act, and shall have borne and sustained such incidental expences, shall, by warrant under the hands of two or more of the commissioners, have and receive from the respective receivers general, their deputy or deputies, two-pence in the pound of all such monies of the said several duties as shall be assessed in or by virtue of such warrants or certificates, who is hereby appointed and allowed to pay the same accordingly; and the clerk who shall not have borne and sustained such incidental expences shall by like warrant have and receive one penny in the pound of all such monies as aforesaid; provided this act be carried into execution in due time, and in an effectual manner, for the district in which he shall be appointed the clerk; and all warrants or estreats be made, and the duplicates be delivered to the receiver general, and into the office of the king's remembrancer as aforesaid, within the times limited by this act, and not otherwise; and no person, except the assistant or assistants to such clerk (if any) shall, under any pretence whatever, be entitled to any part of the reward hereby given

Allowances to
officers for collection.

given to such clerk, which compensations shall be apportioned and settled by the respective commissioners; nor shall such clerk, under any pretence whatever, demand take or receive any fee gratuity or perquisite, for any matter or thing to be done by him, by virtue and under the authority of this act, from any person or persons other than the receiver general, his deputy or deputies, in manner aforesaid: provided always, that no such compensation shall be made to any assessor or collector in respect of any sum or sums detained or stopped under the authority of this act, or paid into the bank of *England*, or in respect of any sums paid by the respective parties into the said bank, nor to any receiver, nor to any of the persons or corporations entrusted with the payment of annuities dividends or shares paid out of any publick revenue of *Great Britain* or elsewhere as aforesaid other than such sum or sums as shall be directed to be paid to such collectors receivers corporations or persons aforesaid, by the warrant of three or more of the commissioners of the treasury, or the high treasurer for the time being, for their pains and care in executing this act.

Further allowance to clerks.

By §. 212. It shall be lawful for the commissioners of his majesty's treasury, or any three or more of them, or the lord high treasurer for the time being, to cause such further allowance to be made to such clerk as aforesaid who shall have faithfully performed his duty under this act, and shall have borne and sustained such incidental expences as aforesaid, of any sum not exceeding one-penny in the pound on the amount of such part of the gross assessments as shall have been discharged on occasion of claims made and allowed under this act, on the ground of income, as they or he respectively shall, on consideration of the extent and population of the district, and the number of claims allowed, think proper to direct, and the certificate of the commissioners for the affairs of taxes, or any three or more of them, shall be an authority to the receivers general respectively to pay such further allowance.

Commissioners of the treasury to settle allowances for surveyors and other officers employed in the execution of the act, and to discharge incidental expences.

By §. 215. It is provided that out of the monies from time to time arisen or to arise of or for the said duties made payable by this act, it shall be lawful to and for the said commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, to settle and appoint such salaries and allowances, for the service pains and labour of the surveyors inspectors and other officers of his majesty, to be employed in the execution of this act, and otherwise in relation thereto, and also to discharge such incident charges and expences of such officers as shall necessarily attend the execution of this act, as the said commissioners of the treasury, or any three or more of

of them, or the high treasurer for the time being, shall think fit and reasonable in that behalf.

(xx.)—*Settlement not gained by payment of duties.*

By *f.* 213. The payment of any of the duties made payable by this act, by any person or persons in any parish or place, shall not entitle the person or persons so paying such duties to a settlement in such parish or place.

Payment of duties not to confer a settlement.

(xxi.)—*Recovery of penalties, &c.*

By *f.* 214. All pecuniary penalties and forfeitures imposed by this act, shall be sued for recovered and applied in such manner and form as is directed in regard to the pecuniary penalties and forfeitures imposed by the said acts respectively, passed in the forty-third year of the reign of his present majesty, the regulations whereof are hereby made applicable to the duties in this act contained.

Recovery of penalties.

By *f.* 200. If any person upon any such examination on oath or affirmation, or in any affidavit deposition or affirmation, authorized by this act, shall wilfully and corruptly give false evidence, or shall wilfully and corruptly swear or affirm any matter or thing which shall be false or untrue, every such person so offending, and being thereof duly convicted, shall be liable to such pains and penalties as by any law now in being persons convicted of wilful and corrupt perjury are liable to.

Persons giving false evidence or swearing falsely, liable to the penalty of perjury.

By *f.* 201. Any indictment or information for perjury committed in any such affidavit deposition or affirmation as aforesaid, whether the same shall be taken or made within Great Britain or without, shall and may be laid tried and determined in the county where such affidavit deposition or affirmation shall be exhibited to the commissioners in pursuance of this act.

Indictments may be tried in the county where the affidavit was exhibited.

And by *f.* 202. If any person shall forge counterfeit or alter, or cause or procure to be forged counterfeited or altered, or knowingly or wilfully act or assist in forging counterfeiting or altering any certificate or certificates of the said commissioners acting in the execution of this act, authorizing or purporting to authorize any allowance under this act, or the amount of any sum or sums contained in any certificate or certificates of the said commissioners, after the same shall have been delivered by the said commissioners; or any certificate or receipt which the cashier or cashiers of the bank of England, or any receiver general or his deputy, are or is by this act authorized to give on the receipt of any money payable

Punishment of persons guilty of forging or altering certificates or receipts given under this act.

payable under this act, or shall utter any such forged counterfeit or altered certificate, or any such receipt, with intent to defraud his majesty, his heirs or successors, or any body or bodies politick or corporate, or any person whomsoever, then and in every such case all and every person or persons so offending, and being thereof lawfully convicted, shall be adjudged guilty of felony, and shall be transported for the term of fourteen years.

Prescribing the evidence to be received in court of persons being commissioners.

By *s.* 203. If upon the trial of any indictment information action suit or prosecution whatsoever, or in any proceedings relative thereto, under and by virtue of this or the said recited acts, or for any thing done in pursuance of this act, or for any offence committed against this act, or in any matter arising out of this act, or on occasion thereof, any question shall arise whether any person be a commissioner or officer of or for the said duties, or commissioned or appointed to act as such, then proof may be made and admitted, that such person was reputed to be or had acted as such commissioner or officer, or acted under such commission or appointment at the time and times respectively when the matter or matters in controversy upon such trial or trials, or other proceedings shall happen to have been done or committed, or omitted to have been done or performed, without producing or proving the particular commission appointment nomination or other authority whereby such commissioner or officer was constituted and appointed; and that in every such case such proof shall be deemed and taken by all judges justices or commissioners before whom any such trial or proceedings shall be had, to be good and legal evidence, unless by other evidence the contrary shall be made to appear; any law or usage to the contrary thereof notwithstanding.

(xxii.)—*General regulations and forms.*

Provisions applied to any particular schedule may extend to another schedule in charging the duty.

By *s.* 217. Every provision in this act contained and applied to the duty in any particular schedule, which shall also be applicable to the duty in any other schedule; and not repugnant to the provisions for charging ascertaining or levying the duty in such other schedule, shall in charging ascertaining and levying the same be applied as fully and effectually as if the application thereof had been so expressly and particularly directed; any thing herein contained to the contrary notwithstanding.

Schedule (F.) to be deemed part of this act.

And by *s.* 218. The schedule herein-after mentioned marked (F.) shall be deemed a part of this act, as if the same had been inserted under a special enactment, provided that the several oaths therein mentioned shall be deemed and understood,

understood, and taken to refer only to the duties contained in schedule (D.)

Schedule (F.)

Form of an oath or affirmation to be taken by the commissioners for the purposes of this act, and by additional commissioners acting in the execution thereof, in respect of the duties contained in schedule D.

I A. B. *do swear or affirm [as the case may be] that I will truly faithfully impartially and honestly, according to the best of my skill and knowledge, execute the powers and authorities vested in me by an act passed in the forty sixth year of his present majesty, intituled, [here set forth the title of this act,] and that I will exercise the powers entrusted to me by the said act, in such manner only as shall appear to me necessary for the due execution of the same; and that I will judge and determine upon all matters and things which shall be brought before me under the said act, without favour affection or malice; and that I will not disclose any particular contained in any schedule or statement, delivered with respect to any duties charged under the provisions and regulations relating to schedule (D.) as recited in the said act, or any evidence or answer given by any person who shall be examined, or shall make affidavit deposition or affirmation respecting the same, in pursuance of the said act, excepting in such cases and to such persons only who shall be sworn to the due execution of this act, and where it shall be necessary to disclose the same for the purposes of this act, or to the commissioners for the affairs of taxes, or in order to or in the course of a prosecution for perjury committed in such examination affidavit deposition or affirmation.*

Oath to be taken by c. commissioners for the purposes of the act, and additional commissioners acting in respect of the duties contained in schedule D.

So help me GOD.

Form of oath or affirmation to be taken by inspectors and surveyors as aforesaid.

I A. B. *do swear [or, affirm] that in the execution of an act, intituled, [here set forth the title of this act] I will examine and revise all statements schedules and declarations, delivered within my district; and in objecting to the same I will act according to the best of my information and knowledge, and that I will conduct myself without favour affection or malice, and that I will exercise the powers entrusted to me by the said act, in such manner only as shall appear to me to be necessary for the due execution of the same, or as I shall be directed by the commissioners for the affairs of taxes, or any three or more of them; and that I will not disclose any particular contained in any statement or schedule,*

Oath to be taken by inspectors and surveyors.

with

with respect to any duties charged under the provision and regulations relating to schedule (D.) or any evidence or answer given by any person who shall be examined, or shall make affidavit deposition or affirmation respecting the same, in pursuance of the said act, except in such cases, and to such person only who shall be sworn to the due execution of this act; and where it shall be necessary to disclose the same for the purposes of the said act, or to the commissioners for the affairs of taxes, or in order to or in the course of a prosecution for perjury committed in such examination affidavit deposition or affirmation. *So help me GOD.*

**Form of oath or affirmation to be taken by assessors as
aforesaid.**

Assessor's oath.

I A. B. do swear [or, affirm] that in the execution of an act, intituled, an act [here set forth the title of this act] I will in all respects act diligently and honestly, and without favour or affection to the best of my knowledge and belief, and that I will not disclose any particular contained in any statement or schedule delivered to me in the execution of the said act, except in such cases only, and to such persons, where it shall be necessary to disclose the same for the purposes of the said act, or in order to or in the course of a prosecution for perjury committed in any matter relating to such statement or schedule. *So help me GOD.*

**Form of oath or affirmation to be taken by the collector or
the deputies to the receivers general, appointed under this
act as aforesaid.**

**Oaths for col-
lectors and de-
puty receivers.**

I A. B. do swear [or affirm] that in the execution of an act, intituled, an act [here set forth the title of this act] I will not disclose any assessment, or the amount of any sum paid or to be paid by any individual under the said act, or the books of assessment which shall be delivered to me in the execution of the said act, with respect to any duties charged under the provisions and regulations relating to schedule (D.) except in such cases, and to such persons only who shall be sworn to the due execution of the said act; and where it shall be necessary to disclose the same for the purposes of the said act, or to the commissioners for the affairs of taxes, or in order to or in the course of a prosecution for perjury committed in such examination or affidavit.

So help me GOD.

**Form of oath or affirmation to be taken by a clerk or clerk's
assistant to the commissioners aforesaid.**

Clerk's oath.

I A. B. do swear [or, affirm] that I will diligently and faithfully execute the office of a clerk or assistant clerk [as the case may be] according to an act, passed in the forty-sixth year of the
reign

reign of his present majesty, intituled, an act [here set forth the title of this act] to the best of my knowledge and judgement; and that I will not disclose any particular contained in any statement declaration or schedule, or any evidence or answer given by any person who shall be examined, or shall make affidavit deposition or affirmation respecting the same (except in such cases where I shall be directed so to do by the regulations of the said act, or any two or more of the commissioners under whom I act, or of the commissioners for the affairs of taxes, or in order to and in the course of a prosecution for perjury committed on such examination affidavit deposition or affirmation.) So help me GOD.

By s. 219. The schedule marked (G.) with the rules and directions therein contained, shall, in making returns of the amount of annual value or profits on which any duty is chargeable as aforesaid, so far as the same are respectively applicable to the case of each person corporation company or society, described or mentioned in this act, on behalf of themselves, and also of others for whom they act, in any of the characters described in this act, or herein-after mentioned, be observed by each such person corporation company or society, or by his her or their agents or officers, in the cases where such agents or officers are authorized to make such returns.

Schedule (G.) to be observed in executing the act.

Schedule (G.)

[This schedule contains the several printed forms to be delivered as guides to those who are to make returns under the several schedules of this act; they are not inserted here, as being of no use for the purpose of this book.]

By s. 220. Every person gaining his livelihood by daily labour as aforesaid, shall, in order to be exempted from payment of the said duties, produce to the commissioners a declaration signed by him or herself, with a certificate annexed in the following form.

Prescribing the form of labourers, &c. certificates.

‘ I A. B. do declare, that I exercise and follow the employment of
‘ a labourer in husbandry, or other work, [naming it] or ar-
‘ tisan, handicraftsman or mechanic, in the trade of [naming it]
‘ or manufacturer in the manufacture of [naming it] for daily
‘ [or weekly] wages; that I have not received in any one week
‘ within the year preceding for my work or labour, any sum ex-
‘ ceeding [name the sum] (except in employment in husbandry in
‘ time of harvest) and that within the time above mentioned I
‘ have worked for of and
‘ that I have not received within the preceding year any sum or
‘ sums of money from any source other than labour as aforesaid.

‘ Signed

"I of hereby certify, that the above
 "signed was in my employ as a for
 "within the year preceding, and that the wages paid by me did not
 "exceed the rate above mentioned, and to the best of my belief the
 "matters contained in the above declaration are true as far as the
 "same are within my knowledge. Signed

Commissioners
 of taxes to dis-
 perse proper
 forms &c. for
 executing this
 act.

By s. 221. The commissioners for the affairs of taxes shall cause proper forms to be made out and dispersed for returning all such matters and things as are required to be returned by this act, containing the lists, declarations and statements mentioned in schedule (G.) with proper references and schemes for including such returns; and all such other lists, declarations and statements, and all other matters and things as are required by this act, and which may be necessary to be made out in the due execution of this act, in such manner and form as shall appear to them to be most expedient.

Certificates of
 allowances.

By s. 222. Whenever any certificate shall be granted authorizing any allowance in respect of income, the following forms shall be observed *mutatis mutandis*, and the sums allowed shall be inserted therein in words at length.

[Here follow the forms.]

Nothing in the
 act shall im-
 peach any of the
 provisions in 44
 G. 3. c. 3
 relative to East
 India bonds.

By s. 223. Provided always, that nothing in this act contained shall be construed to impeach any of the provisions contained in an act passed in the forty-fourth year of the reign of his present majesty, intituled, *An act to regulate the bonds issued by the East India company, with respect to the rate of interest, and the duty payable thereon.*

Assessments not
 to be suspended
 on account of
 assessments for
 former
 years not
 having been
 proceeded on.

By s. 225. It is further enacted, that the assessments to be made under this act shall not be suspended by reason or under pretence that the assessments which ought to have been made in any former year under the said recited acts or this act shall not have been proceeded upon, or shall not have been completed, or that the duties assessed in any such former year shall not have been fully levied or paid, nor shall any proceedings of commissioners, &c. employed in the execution of this act, for the purpose of charging assessing levying or collecting the duties made payable by this act for the current year, be adjourned suspended, or delayed on account or on pretence that the assessments for any former year have not been proceeded upon or have not been completed or that the duties charged thereby have not been levied and paid or fully accounted for.

Manner of
 proceeding in
 districts where

By s. 226. In order to facilitate the proceedings necessary for making assessments at the same time for two or more years,

it is further enacted, that in every district of commissioners wherein the assessments which ought to have been made for any former year shall not have been completed within the year appointed for such assessment, or wherein the duties assessed for any former year shall not have been paid and fully accounted for at the time or times required and directed by the said recited acts respectively or this act, the commissioners inspectors surveyors assessors and collectors and others employed or to be employed in the execution of the said recited acts or this act in such districts respectively shall proceed in the execution of the said recited acts and this act according to the following rules and directions, and perform all such acts as are required of them in the manner herein directed.

former assessments are not completed.

No. I.

Rules and directions for proceeding to assess the duties under the said recited acts in such districts of commissioners as are in default as aforesaid.

1st.—The respective commissioners who shall have acted in the execution of the said recited acts in any district so in default as aforesaid, and who shall not have declined acting therein within such time before the passing of this act as that others have been appointed in their stead, shall and they are hereby strictly enjoined and required to continue to act in the execution of the said recited acts until all assessments under the said acts shall have been completed and the duties contained therein shall have been fully levied collected or paid and accounted for to his majesty, unless on account of sickness or other just cause, to be allowed by three or more of the commissioners of his majesty's treasury for the time being, any such commissioner shall be excused from further attendance :

2d.—The last appointment of assessors for any parish or place situate in any district so in default as aforesaid, shall continue in force until all assessments under the said recited acts shall have been completed and fully made ; and the assessors so appointed shall continue to act for each year now elapsed subsequent to the time of their respective appointments without any further or new appointment until all the assessments under the said recited acts shall have been completed for their respective parishes or places, under the penalty contained in the said acts or any act therein referred to for neglect of duty, unless the commissioners of the district shall within fourteen days next after notice of this act and a copy thereof shall have been delivered to them or any of them, or to their clerk, ap-

point other persons to be assessors for the same parishes or places respectively for such subsequent year :

3d.—In all cases where assessors shall have made their estimates required by the said recited acts for any year or years now elapsed, and shall not have made any estimates under the said recited acts for the subsequent year or years also elapsed, it shall be lawful for the said commissioners to make their assessments for each subsequent year or years elapsed on the last estimates so made without further estimates being required ; such estimates remaining subject to the examination or review of and alteration or amendment and to the increased charge by the said commissioners in like manner as if the estimates had been duly made in such and each subsequent year, and such assessments being respectively subject to appeal on the part of the person or persons to be charged, and to surcharge on the part of the surveyor or inspector, as if the same had been made on estimates delivered in such subsequent year :

4th.—In all cases where the parties to be charged shall have made their returns of profits as required by the said recited acts for any year or years now elapsed, and shall not have made the like returns under the said recited acts for the subsequent year or years also elapsed, it shall be lawful for the said commissioners to make their assessments for each subsequent year or years elapsed on the last return so made, without further returns being required ; such returns remaining subject to the examination or review of and to increased charge by the said commissioners, in like manner as if returns had been duly made in such and each subsequent year ; and such assessments being respectively subject to appeal on the part of the person or persons to be charged, and to surcharge on the part of the surveyor or inspector, as if the same had been made on returns delivered in such subsequent year :

5th.—In all cases where the clerks abstracts required to be made by the said recited acts shall have been made for any year or years now elapsed, and shall not have been made for the subsequent year or years, on occasion of such estimate or returns not having been delivered in such year, or for any other cause, the last abstract made for any of such years shall be a sufficient document to charge the duty for any year or years now elapsed subsequent to the year for which such last abstract was made, such abstract being subject to alteration or amendment as the case may require ; and it shall be lawful to make out certificates to the collectors of the duties for each such year on the assessment so made, adding thereto the additional duty imposed by the said act for the year ending *April 5th 1806* :

6th.—In

6th.—In pursuing the rules and directions before mentioned, it shall be lawful for the commissioners and their clerks, and for their inspectors surveyors assessors and collectors respectively, to practise use and apply all and any of the rules before contained in this act touching or concerning the assessments under schedules (A.) and (B.) to be made after *April 5th 1806*, as far as the same relate to the continuance of such assessments, for two years; which rules shall be construed in like manner as if the same had been inserted in this clause and actually applied to the cases herein-mentioned :

7th.—The rules before mentioned shall be construed not to extend to any district wherein the commissioners have proceeded to assess the duties for the year ending on *April 5th 1806*, at the time notice of this act and a copy thereof shall be given to them as aforesaid.

No. II.

Rules and directions for proceeding to assess the duties under this act in the districts of commissioners who have not completed the assessments under the said recited acts, for all the years elapsed under the said recited acts.

1st.—The respective commissioners who are herein-before required to continue to act until all the assessments under the said recited acts shall be completed, and the duties thereupon shall be collected, are also enjoined and required to act in the execution of this act during such period, and further until all the assessments under this act which shall have been or ought to have been made during such period shall also have been completed, and the duties thereupon shall be fully collected and accounted for, and so that the assessments under this act shall be made within the year appointed by this act for such assessments and the duties thereupon be collected or paid within or immediately after the expiration of such year, unless any such commissioner or commissioners shall be excused from further attendance pursuant to the rule, and for any of the causes before mentioned :

2d.—The respective assessors for any parish or place, who are herein-before, directed to continue in office until the said recited acts be fully executed, shall also execute this act as assessors within the limits of their appointment under the penalty before mentioned, unless and until the respective commissioners shall, under the regulations of this act, appoint other persons to be assessors for such parishes and places respectively :

3d.—Whenever the warrants for collection of the said duties shall not have been or shall not be issued to the collectors before the expiration of the year next after the year for

which the said duties ought to have been assessed, and the duties for two or more years shall not be paid, the respective commissioners are in such case strictly enjoined and required to cause the whole of the duties so assessed for the first of the said years to be collected and paid by equal moieties on the two quarter days next after the allowance of such assessment for the first of the said years; and the whole of the duties so assessed or to be assessed for the second of the said years to be collected and paid by equal moieties on the two next succeeding quarter days which shall happen after such former payment; and the whole of the duties so assessed for each subsequent year to be collected and paid in succession by equal moieties on the two next succeeding quarter days which shall happen after the last payment, and no interval of payment shall be allowed beyond such quarter of a year, nor shall any payment be allowed or directed less than a moiety of one year's assessment until all the duties which have been or ought to have been assessed under the said recited acts shall have been fully paid and satisfied, and until the duties to be assessed under this act shall come into the due course of payment yearly by quarterly instalments according to the general directions of this act:

4th.—Where, by the rules of this clause, it shall be found necessary to issue warrants for collection for or upon the subsequent year's assessment before the duties on a former year's assessment have been fully paid and accounted for, then and in every such case the respective commissioners shall appoint other persons to be collectors of such subsequent year's assessments, and it shall not be lawful for the said commissioners to appoint the same person or persons to be collector or collectors for two or more successive years assessments, unless at the times when the warrants for collecting the second or other subsequent year's assessment ought to be delivered according to the preceding rules, such collector or collectors shall have collected and duly accounted for all the duties given to him or them in charge, and which such collector or collectors might have collected on such former assessment.

Commencement
and continuance
of the act.

By §. 227. This act shall commence *April 5th 1806* and shall continue in force during the present war, and until the sixth day of *April* next after the ratification of a definitive treaty of peace, and no longer; provided that the said duties shall not cease in such districts where the assessments for the preceding year shall not have been completed before the said sixth day of *April*; but that all the powers and provisions of this act shall continue in force, for making and completing all such assessments as ought to have been made during the continuance

continuance of the said duties, and for levying and recovering the duties so assessed or to be assessed, and such arrears of duties as shall remain unpaid at the determination of the said duties; and also for re-assessing the same in default of payment, in the manner herein directed, and for the suing for adjudging and recovering any penalty or forfeiture which shall have been incurred prior to the determination of the said duties.

Sect. IV. Taxes.

Of the regulating acts; viz. 48 G. 3. c. 141. and 50 G. 3. c. 105.

By the 48 G. 3. c. 141. Several additional regulations were enacted for the purpose of facilitating the collection of the duties of assessed taxes, and of the tax upon the profits of professions, trades and offices. And as these enactments are chiefly matters of regulation, and relate to all the duties under the management of the commissioners for the affairs of taxes, it is thought best to place them in a separate division for the sake of more easy reference: and

1. *Of the appointment of assessors; and when collectors shall act in their place.*
2. *Of service of notices.*
3. *Of certificates of assessment and estimates.*
4. *Of surcharges.*
5. *Of accounting for duties received.*
6. *Of the inspectors general.*

From and after the period appointed for the commencement of the rules contained in this clause, all appointments of assessors shall be made, and also all notices required to be affixed on any place, or to be delivered to or served on any person for the purpose of returning or estimating the said duties respectively, shall be affixed, delivered, or served, and all assessments of the said duties, or any of them, shall be returned, estimated, ascertained, and made, and the said duties shall be collected, levied, paid over, and accounted for, subject to the following rules and directions, which shall be deemed a part of this act, as if the said rules and directions had severally and respectively been inserted herein under a special enactment.

Assessors to be appointed, and duties to be assessed according to the rules.

No. L.—Rules and directions for appointing assessors of the duties under the management of the commissioners for the affairs of taxes, after the expiration of the year one thousand eight hundred and eight.

1st.—The respective commissioners acting in the execution of the several acts relating to the said duties respectively, shall appoint assessors for each parish, ward, and place within their respective divisions, before the commencement of each year for which such appointment shall be

Assessors to be appointed before the 6th of April yearly.

made, and do and complete all acts necessary to such appointment, so that the assessors to be appointed may enter on their office on the sixth day of *April* in each year, pursuing, in all other respects, the directions contained in the said acts respectively in relation to such appointments; which appointments shall be and continue for and during the year to commence on that day, and until other assessors shall be appointed for the same parishes, wards, and places, and for the same duties respectively.

In default of such appointment, assessors for former years to act.

2d.—In and for every parish, ward, or place, wherein assessors shall not be appointed before the sixth day of *April* in each year, to serve for the year ensuing as aforesaid, the last appointment of assessors for the same parish, ward, or place (whether made under any of the acts in force at the time of passing this act, or under this act), shall continue in force until other assessors shall be appointed according to the directions of the said acts.

In certain cases the collectors of former years to act.

3d.—In case the assessors appointed for any former year shall be dead, or be removed from, or be otherwise unfit or incapable to act, and in default of such appointment of assessors as aforesaid for the year ensuing then the last appointment of a collector or collectors of the same duties for such parish, ward, or place (whether made under any of the acts in force at the time of passing this act, or under this act) shall continue in force until assessors shall be appointed according to the directions of the said acts; and every such collector shall, in every such case, during such continuance in his office of collector, perform all things as are directed by the said acts or this act to be performed by assessors; and all parts of the said acts or this act relating to and applied to assessors, shall in every such case be applied to such collectors; and the powers contained therein shall be as fully exercised by such collectors, as if expressly given to the said collectors by the said acts or this act.

Liable to penalties for refusing to act.

4th.—All penalties imposed by any of the acts in force at the time of passing this act, on assessors, for refusing or neglecting to take upon themselves the office of assessor, or to perform their duty therein as prescribed by the said acts respectively, shall be in the like cases imposed on assessors appointed according to this act; and every such collector as aforesaid, on whom the duty of assessor shall have devolved in pursuance of this act, shall be subject and liable to the like penalties for the like neglect of duty.

In certain cases, surveyor to act.

5th.—In every parish, ward, or place, where assessors shall not be appointed in pursuance of this act, or being appointed shall not have taken upon themselves the office, or where the assessors or collectors for any former year, on whom the duty of assessors shall have devolved, shall not

not have taken upon themselves the office of assessor on or before the commencement of the ensuing year, the surveyor of the district is hereby required to execute the duty of assessor until assessors shall be appointed who shall duly take upon themselves the said office.

6th.—In every notice of continuance in office of any assessor or collector, the respective commissioners who shall cause such notice to be given, shall require the attendance of such assessor or collector on a day and at a place within the division to be named in such appointment or notice, then and there to receive and take charge of all such notices and papers as shall be delivered to them respectively, for the due execution of the said acts, in manner hereinafter mentioned, which day shall not be later than seven days after the fifth day of *April* in each year; and in default of such notice being given by such commissioners, it shall be lawful for the inspector or surveyor of the district to give such notice, and to require the attendance of such assessors or collectors on a day and at a place within the division to be named by the said inspector or surveyor for that purpose.

Commissioners to give notice of continuance in office.

No. II.—Rules and directions for service of notices to persons liable to be charged to the said duties, or any of them.

1st.—All notices relating to any of the said duties, requiring to be affixed on any place, or to be delivered to or otherwise served on any person for the purpose of returning or estimating the said duties respectively, shall be delivered by the respective surveyors of the districts in which such notices are required (or by the inspectors for the same districts, or by any other inspectors or surveyors of the same duties, duly authorized to take charge of such districts respectively, by or under the commissioners for the affairs of taxes or any three or more of them) to the respective assessors appointed or acting in pursuance of this act, or to the respective collectors on whom the duty of assessor shall have devolved as aforesaid, for the purpose of serving the same on the respective persons liable to the said duties, in the manner required by the said acts.

Surveyor to deliver notice papers to assessors.

2d.—All such notices shall be delivered to such assessors or collectors as aforesaid on or as soon after the sixth day of *April* in each year as the same can be done; and the delivery of such notices by such inspectors or surveyors, or any of them, shall be as effectual as if the same had been delivered by the commissioners of the division.

Time of delivery.

3d.—The said assessors and collectors respectively are to observe such directions as may from time to time be given to them

Assessors and collectors to observe the directions.

tions of the inspectors and surveyors respecting notices.

them by the said inspectors and surveyors, in all matters touching the time and manner of fixing or delivering or otherwise serving such notices, and the persons on whom the same are to be served, such directions having been previously seen and allowed by the commissioners acting for the division in which the said inspector or surveyor shall act.

No. III.—Rules and directions for making and returning the certificates of assessment, or certificates of estimates, by assessors acting under the said acts, and for making and collecting the first assessments in each year.

Time of delivering certificates of assessments.

1st.—The assessors of the said respective duties shall deliver their certificates to the respective commissioners on or before the day which such commissioners shall appoint for that purpose, yearly, which day so to be appointed for the delivery of the certificates of assessment of the duties of assessed taxes, shall not be later than the twentieth day of *June* in each year of assessment; and the day to be appointed for the delivery of the certificates of estimates of property, or profits of professions, trades, and offices, shall not be later than the 20th day of *July* in the same year, on which days respectively, the said assessor shall also deliver to the respective commissioners all the returns or statements relative to the said respective duties made to the said assessors before the respective days so appointed; and all the returns and statements made by the parties to be charged, which shall be delivered after that day, shall be delivered to the respective commissioners.

For making assessment in default of return.

2d.—In all cases relating to the duties of assessed taxes, where the assessor shall not have received any return from any person liable to be charged to the said duties, such assessor shall make a true assessment on such person to the best of his information and judgement, of the real charge which ought to be imposed; and in all cases relating to the duty on property, professions, trades, and offices, where the respective assessors shall not have received any statement from any party liable to be charged to the said duties, the said assessors shall estimate the property of such parties respectively, and the profits arising from any professions or trades exercised, or any offices held by such parties respectively, according to the best of his information and judgement; and in case the said assessor shall not so estimate, then such assessor shall return to the said commissioners the name and place of residence of every such party; and where the respective commissioners shall not have received any statement, it shall be lawful for the

the said respective commissioners to make an assessment on such party either in the same sums respectively, and to the same amount, as the said parties respectively were charged in the last assessment of the said duties for the said division, or according to the best of their judgement, subject to alteration by appeal or surcharge, in the manner directed by the acts relating to the said duties.

- 3d.—The first assessments to be made of the said duties or any of them, for any year, shall be made according to the estimates or returns and assessments mentioned in the preceding rule, without including therein any matters of surcharge by the inspectors or surveyors: which first assessments respectively shall be separately and distinctly collected, and shall be contained in the first duplicates to be delivered to the collectors and surveyors for that year, and shall be collected and levied in moieties on the days herein-after mentioned; that is to say, one moiety of the duties of assessed taxes, if not sooner paid or satisfied according to the directions of the said acts respectively, shall be collected or levied before the tenth day of *October*, in each year of assessment, or within twenty one days thereafter, and the other moiety thereof before the fifth day of *April* following, or within twenty one days thereafter; and one moiety of the duties on property, professions, trades, and offices, if not sooner paid or satisfied as aforesaid, shall be collected, levied, or paid before the fifth day of *January* in each year of assessment, or within twenty-one days thereafter, and the other moiety thereof before the fifth day of *July* following, or within twenty-one days thereafter; provided always, that nothing herein shall be construed to alter the times or proportions at which the said duties are payable, according to the directions of the said acts respectively, or in any way to impeach or affect the powers or provisions of the said acts for the recovery of the said duties at such times and in such proportions as are therein prescribed, and the said respective duties shall be deemed payable quarterly at the times mentioned in the said acts, by four instalments; and it shall be lawful to demand, receive, or levy the same according to the said acts; any thing herein contained to the contrary notwithstanding.

First assessment to be made without including matters of surcharge.

Times of collection.

- 4th.—In order that due time may be given for hearing appeals against such first assessments, the respective commissioners are hereby required and strictly enjoined to deliver, in all cases relating to the duties of assessed taxes, their first duplicates thereof to the respective collectors on or before the twentieth day of *July* in each year, with directions to cause publick notice thereof to be given in the parish, ward, or place to which such duplicates relate, to which

Time of delivery of duplicates of first assessments.

duplicates

duplicates in the hands of such collectors all persons interested shall have access, and may examine the same at any reasonable time in the day-time; and in all cases relating to the duties on property, professions, trades, and offices, the respective commissioners shall, as and when they shall make an assessment on any person cause a notice thereof to be given in the manner directed by the acts relating to the said last-mentioned duties, to the party or parties charged in and by such assessment within the space of three days after making such assessment, and so from time to time, until all such assessments shall be made, in which certificates shall be inserted the times limited for hearing the appeals therefrom.

Regulating appeals as to the time of entering them.

5th.—All appeals against such first assessments shall be entered, and due notice thereof given within the respective times herein-after limited; that is to say, in all cases relating to the duties on assessed taxes, within twenty-eight days after the delivery of the duplicates of the first assessments to the respective collectors of the parishes, wards, or places, for which such assessments shall be made; and in all cases relating to the duties on property, professions, trades, and offices, within fifteen days after the date of the notice of such first assessment, to the party or parties charged therewith.

As to hearing them.

6th.—All appeals against such first assessments of the duties of assessed taxes, in any year, shall be heard and determined between the twentieth day of *August* and the tenth day of *September* following; and on such day or days within the time herein limited, as the commissioners of the division shall appoint, whereof they are hereby required to give notice in the manner in which such notices have usually been given in the several parishes, wards, and places in their division; and all appeals against such first assessments of the duties on property, professions, trades, and offices, in any year, shall be heard and determined as soon after notice thereof shall be given to the respective commissioners as conveniently can be done, and for that purpose the said respective commissioners, or two of them at the least, shall meet together within eight days after any such notice of appeal shall have been received by them, and so from day to day or from time to time, at reasonable intervals, with or without adjournment, until all appeals against such first assessment shall be heard and determined, of which day or days of appeal the said respective commissioners shall cause notice to be given to the respective appellants: provided always, that in every case where the party assessed shall be prevented from appealing within the time herein limited, or from attending in person at the time limited for hearing the appeal of such party by absence

or sickness, or other sufficient cause, to be proved before the respective commissioners on the oath or solemn affirmation of the party, it shall be lawful for the respective commissioners to enter such appeal after the time herein limited, or to postpone the hearing thereof for such reasonable time as shall be necessary, so that no delay shall be thereby occasioned in the payment or collection of the sums contained in the said first assessment.

7th.—The said respective commissioners shall cause to be delivered to the respective collectors their duplicates of the first assessment, including in such duplicates, as well all such matters as have been appealed against and determined by the said commissioners, as all such matters as have been assessed and not appealed against; and all such duplicates shall be delivered within the respective times herein-after limited; that is to say, the duplicates of the duties of assessed taxes on or before the twentieth day of *September* yearly, and the duplicates of the duties on property, professions, trades, and offices, on or before the twentieth day of *December* yearly, to which duplicates respectively, warrants shall be annexed for collecting the duties therein contained within the times respectively before prescribed.

Time of delivering duplicates.

8th.—All such assessments which shall not have been made on or before the twentieth day of *September* in respect of the duties of assessed taxes, and the twentieth day of *December* in respect of the duties on professions, trades, and offices, or against which any appeal shall be depending on those days respectively, shall, on the making or determining the same from time to time be added to such first assessments and to the respective duplicates thereof; and the duties therein, or the moiéties thereof which ought to have been previously collected or paid, shall be collected, levied, or paid, on or before such day or days as the respective commissioners shall order by their warrant annexed to the duplicates of such added assessments, such day not being later than twenty-one days after the making such assessment, or determining the appeal thereon.

Cases not then determined to be added to first assessment.

9th.—Whenever any assessment of the duties on professions or trades shall be made within the time herein limited, under a number or letter the same shall be included in, or from time to time added to such first assessments, and the said duties shall be paid either into the bank of *England*, or to the receiver general or his deputy, in the like proportions as aforesaid, on or before the day or days herein appointed for collecting such duties by the respective collectors, and the said commissioners shall direct and order the same to be paid accordingly; and in default of such

Assessment under a number to be added to first assessment, if not paid to receiver, or into the bank.

such payment the said respective commissioners shall cause the said assessments to be added to the duplicates in the hands of the respective collectors to whom the collection of the duties assessed on persons by name shall have been intrusted to be collected, by the same ways and methods, and under the like powers and provisions, as such last-mentioned duties are directed to be collected.

No. IV. Rules and directions for making and collecting the supplementary assessments in each year.

Time of making surcharges. 1st.—If any inspector or surveyor shall have surcharged any person for any matter for which a surcharge is allowed by the acts relating to the said duties respectively, it shall be lawful for such inspector and surveyor to deliver the certificate of surcharge, explicitly stating the particulars in respect to which such surcharge has been made to the respective commissioners in respect of the duties of assessed taxes, at any time on or before the fifteenth day of *December* in each year of assessment for the whole of such year, and in respect of the duties on property, professions, trades, and offices, at any time after the time herein prescribed for making the first assessments of the said duties for that year, and from time to time until the commissioners shall have completed all the assessments of their division for that year, and shall have delivered, in the manner directed by the said acts, the duplicates thereof, and the same shall have been entered of record in his majesty's exchequer, which certificates of surcharge shall be signed and allowed by two of the respective commissioners, under the restrictions, and subject to appeal under the conditions prescribed by the said acts respectively.

Time of making appeals from surcharges. 2d.—All appeals against such surcharges relating to the duties of assessed taxes shall be heard and determined by the commissioners of the division, or any two or more of them, between the twentieth day of *January* and the twentieth day of *February* following; and all appeals against such surcharges relating to the duties on property, professions, trades, and offices shall be heard and determined according to the directions of this act before prescribed, in respect of appeals against the first assessments of the same duties by the respective commissioners: provided always, that in every case where the party surcharged shall have been prevented by absence or sickness, or other sufficient cause to be proved before the respective commissioners on the oath or solemn affirmation of the said party, from appealing within the time herein limited, or

from attending in person at the time limited for hearing such appeals, it shall be lawful for the respective commissioners to enter such appeal after the time herein limited, or to postpone the hearing thereof for such reasonable time as may be necessary.

3d.—The said certificates of surcharge, amended according to the determination of the respective commissioners, shall be a sufficient authority to them, and they are hereby required to cause supplementary assessments to be made out of the said duties respectively, including therein all matters so surcharged, as well such matters as have not been appealed against, as the matters determined by the said commissioners, which matters shall be severally charged to the said duties respectively, according to the said certificates of surcharge, amended, in cases requiring amendment, according to the determination of the said commissioners, and also including therein the double duties or moieties, or parts thereof assessed, over and above the rates of duty prescribed by the said acts respectively, and also all fines and penalties imposed on any persons by the said respective commissioners within the year of assessment for offences committed against the said acts or this act; which double duties or moieties, or parts thereof, and penalties, shall severally be added to such supplementary assessments, and be collected therewith.

Supplementary assessments to be made on the surcharges after appeals.

4th.—The duties and sums of money contained in the supplementary assessments of each year, which shall be completed within the time herein limited, shall, if not sooner paid or satisfied according to the directions of the said acts respectively, be collected and levied at the respective times herein-before appointed for payment of the last instalment of the duties contained in the first assessments of the said duties respectively for that year; and each assessment thereof shall be collected, levied, or paid in one sum.

Supplementary assessments to be paid on the last instalment of the duties on the first assessments.

5th.—In all cases where any of the said duties shall not have been ascertained and assessed before the respective days appointed by this act for payment for the last instalment thereof, the same respectively shall be assessed from time to time, until a complete assessment be made, and shall be collected, levied, or paid in one sum within twenty-one days after notice of the amount contained in the assessment thereof.

Assessments not completed within the time limited, to be collected in one sum.

6th.—If any inspector or surveyor shall wilfully make any false and vexatious surcharge of any of the duties contained in any of the said acts, or shall wilfully deliver, or cause to be delivered, to the respective commissioners for executing the said acts or any of them, any false and vexatious

Providing against vexatious surcharges.

versious certificate of surcharge of any of the said duties, every such inspector or surveyor shall be liable to forfeit to the party aggrieved any sum not exceeding one hundred pounds, or treble the value of the sum claimed by such surcharge, over and above the rate of duty charged by the said acts respectively, to be recovered by action of debt, bill, plaint, or information, in any of his majesty's courts of record at *Westminster* for offences committed in *England*, and in the court of great sessions for offences committed in *Wales*, with full costs of suit; and it shall be lawful for the party aggrieved to sue either for the said penalty of one hundred pounds, or for the said treble value under this act, at his or her election; and it shall also be lawful for the judge before whom such inspector or surveyor shall have been convicted of such offence in any such suit, either for the said penalty or treble value, or any part thereof, by indorsement on the *posita*, or for the court before whom such inspector or surveyor shall be convicted, by entry on the record, to certify his or their satisfaction with such conviction; and in every such case the said certificate shall be an authority to the commissioners for the affairs of taxes, and they are hereby required to cause to be paid by the receiver general of the county, riding, or division wherein such conviction was had, out of any monies of the said duties respectively in his hands, such reasonable expences as the plaintiff shall have incurred, over and above the costs of suit as aforesaid, the amount thereof being certified by the proper officer for taxing costs of the court in which such suit shall be commenced, to have been necessarily expended, and allowed by such officer as between attorney and client; and every such inspector or surveyor shall, after such conviction, be discharged from his employment.

By the 50 G. 3. c. 105. s. 1. the following regulations for the making of surcharges either upon the duties of assessed tax, or of the property tax, were enacted.

Rules and directions for making objections and charges, and for limiting the times of making the same in certain cases, in that part of *Great Britain* called *England*.

Surveyors and inspectors to examine returns and assessments, and may amend them, &c.

1st.—Every surveyor and inspector are strictly required to inspect and examine all the returns of lists, statements, declarations, accounts or estimates, made by persons chargeable or by any assessors, according to the directions of any act before-mentioned, and also all the first assess-

ments of the said duties or any of them, made for any parish, ward, or place for any year, as well before as after the respective commissioners respectively shall have signed and allowed the first assessments made for such parish &c. for that year: And if he shall discover any error or wrong amount or computation of duty therein; or that any person who ought to be charged shall have duly made a return, but shall have been omitted to be charged with the said duties or any of them, or shall be under-rated in the said first assessment, and that the said return doth contain matters sufficient whereby the said surveyor or inspector may rate such person in the said first assessment to the full duties chargeable according to; or by or from such return, the said surveyor or inspector, before such allowance shall correct and amend such assessments, and shall charge such person to the full amount and at the full rate of duty at which he ought to be charged, according to his return delivered.

- 2.—If any such surveyor or inspector shall, after any such assessment or assessments in respect of the duties of assessed taxes shall be signed and allowed by the said commissioners, or if any such surveyor or inspector shall, after any such assessment or assessments in respect of the duties arising from the profits of property &c. shall be signed or allowed by the commissioners acting for the general purposes of the acts relating to the said duties, discover that any person liable to the duties in respect of which such lists, statements, accounts, or estimates as aforesaid ought to have been delivered, hath not made any return as required, or hath omitted any person, or any property or profits, or the amount or value thereof, or any article, or any description of the same, which ought to have been returned, or hath not returned the full amount or value as required by any of the said acts, so that he shall not on account of such default or omission have been charged to the amount which ought to be paid by him, or that any exemption, allowance, or deduction, which is not allowed by the respective acts, shall have been claimed by such return, then it shall be lawful for the said surveyor or inspector to certify the same in writing, together with an account of every such default, omission, or claim, with the name or description of the person or thing not returned or omitted, to the best of his knowledge and belief, and the full amount of the single duty by which the assessment ought to be increased, explicitly stating the particulars in respect of which such charge has been made, and to deliver the same to any two or more of the said commissioners for putting in execution the said acts respectively, or to their

After assessments are allowed, the surveyor to certify omissions to the commissioners by way of surcharge.

Upon delivery of such certificate, and upon oath being made that notice was given to the party, the commissioners to allow the certificates.

Lists to be delivered to the surveyors, and assessments to be produced for taking copies.

Notice to be given to persons charged.

Delivery of certificate of surcharge to the clerk, in default of meeting of the commissioners, to be sufficient.

Certificate to be deemed sufficient proof of contents of notices.

clerk, in order to have such default &c. and the under-rate occasioned thereby, rectified; and such commissioners are, upon the delivery of any such certificate, and upon oath being first made either by the inspector or surveyor, or any other witness who shall have served the same, that a notice to the effect herein-after mentioned was duly served, required to sign and allow the said certificates, and to cause the supplementary assessments to be made according to such certificates, subject to appeal as herein-after is allowed.

3.—Every person in whose custody any such lists &c. shall be, shall upon the request of any such surveyor or inspector deliver the same into his custody for the purposes aforesaid, taking his receipt for the same; and every person in whose custody any such assessment shall be, shall upon the request of such surveyor or inspector, produce the same; and who is hereby authorized to take charge of the same, until he shall have taken such copies or extracts from the same, as may be necessary for his better information.

4.—The said inspectors and surveyors shall give to every person charged, or leave at his last or usual place of abode, in the district where such charge was made, or on the premises charged with the assessment, as the case shall require, and as shall have been directed by the several acts relating to the said duties respectively, notice in writing of such charge, and of the amount of duty to be included in the certificate of such charge, and the particulars thereof; which charges they are to make at or before such times as are directed by the said acts or this act for the delivery of the certificates of such charges to the said respective commissioners.

5.—In default of a meeting of the said respective commissioners before the time limited for the hearing of any appeals from the charges of the said surveyor or inspector, or if the said surveyor or inspector shall not have had notice of a meeting, the said commissioners shall, at their first meeting to be held thereafter, sign and allow the said certificates, and afterwards hear and determine all appeals therefrom.

6.—The certificate delivered to the commissioners containing the day or days of service of the notice delivered to the party shall be deemed sufficient proof of the contents thereof, unless the contrary be shewn on the production of such notice to the said respective commissioners by the party charged; and no proof of the contents of any such notice shall be required by the said commissioners to be given to them, either by a copy thereof or otherwise, previous to their signing or allowing the said certificates.

nor

nor upon appeal therefrom, nor other proof in any matter relating to the same, except as aforesaid; and except the oath of the person who shall have served such notices as herein-before directed, and which shall be in the form and to the effect following;

I A. B. do swear, That a notice in writing was duly served upon each person mentioned in the above certificate, containing the particulars as set forth therein respectively, on the day (or days) mentioned in the said certificate.

7.—No assessment made by any assessor, nor any charge made by any surveyor or inspector upon such assessment, shall be affected by reason of any mistake in the christian or surname, or either of them, of any person liable to any of the said duties, nor by reason of any mistake in the description of any property or profits, or of any servant or person, or of any article, matter, or thing for which the person so charged shall be liable to any of the said duties, nor by reason of any mistake in the amount of the duty charged, nor by any variance between the notice and the certificate of charge, whether such mistake shall appear in or such variance shall arise from the notice and certificate to be delivered or made in such case, or in either of them; but all such assessments and charges shall be valid notwithstanding any such mistake or variance; provided, that in cases of charge the notice thereof be duly served on the person intended to be so charged, and such notice and certificate do severally contain in substance and effect the several particulars on which such charge shall have been made; and every such charge shall be heard and determined on the merits, in such manner as in the said acts or in this act is directed.

8.—Any person to whom such notice of charge shall be so given, on occasion of having neglected to make any return as required, at any time previous to the hearing appeals next after the delivery of such notice, may make out and deliver to the surveyor or inspector who shall have delivered the notice of charge, a true and complete list, statement, account, or estimate, of all things required to be returned; so that he may from such last-mentioned list &c. so to be delivered, be charged to the said duties respectively the full sum at which he ought to be charged; provided, that to every such list &c. there shall be annexed a declaration as herein-after mentioned; and if the said surveyor or inspector shall be satisfied with such list &c. and the declaration annexed thereto, then he shall certify such return and declaration annexed thereto to two or more of the said commissioners, with the amount of the duty to be charged;

Assessments or charges not to be impeached on account of mistakes in the names or descriptions.

Double duty may be avoided by making a return before the day of appeal, with a declaration annexed.

The surveyor may certify the same, and the party shall be charged at single duty.

But if dissatisfied shall state his objection.

Declaration to contain a satisfactory account in excuse of the party, and to be attested by credible witnesses.

who shall thereupon cause the assessment to be made according to such certificate, and the same rate of single duty as set forth in the several acts respectively, to be charged on the person making such return, without further delay; but if upon examination the said surveyor or inspector shall see just cause to object, he shall thereupon certify such return and declaration annexed thereto, together with the cause of his objection, to two or more of the said commissioners, who shall thereupon cause the assessment to be made according to such last-mentioned certificate in double the amount of the duty at which he shall be charged, and from which charge no abatement shall be made on any pretence, unless on appeal as hereinafter is directed; of which objection, notice shall be given by the surveyor or inspector to the person to be charged, together with the cause of his objection to the said return and declaration to be annexed thereto; and the said commissioners shall determine the said objections on the merits, without further notice of appeal from the party so charged.

9.—Every such declaration, in cases where no return hath been previously made by the person so charged for the same year, shall allege and declare in substance, or to the effect as follows; (that is to say)—That he the said exhibitant was not at his dwelling-house or other place of abode at the time appointed for the fixing, or delivery, of general or other notices for making a return as required by the said act or acts, nor between that day and the time limited for making such return to the assessor, and that he hath not received or had any knowledge of any such notice; or that he was disabled by sickness from making such return; or, that the non-delivery of such return was occasioned by the following mistake or accident, without any intention to defraud the revenue, *videlicet*, [here set forth the cause of such default;] and that the return to which the declaration of the said exhibitant is annexed is a full, perfect, and complete return of all matters and things required of the said exhibitant by the said act or acts, or by this act, to the best of his judgement and belief:—Which declaration and return shall severally and respectively be signed by the party making the same, in the proper name and handwriting or sign of the said party, and attested by any one witness, who shall have seen the said party subscribe or sign the same, and shall attest the signature thereof in the proper name and handwriting of the said witness respectively; provided every such witness shall be an inhabitant of the same ward, parish, or place where the said party shall reside, and shall be rated in the assessment of the same duties for the same ward, parish,

parish, or place aforesaid, or if in any place there shall be no inhabitant competent to be such witness, then the said declaration shall be attested by some witness, rated as aforesaid, and residing in the next adjoining parish where the said party shall reside.

20.—It shall be lawful for any person to whom such notice of charge shall be served on occasion of his having omitted in the return before made for the same year, any person, property, profits, description, statement, account or estimate, or any article, matter, or thing which ought to have been contained in such former return, or which shall be mentioned in such notice of charge not to be contained in such former return, or of having claimed any exemption, allowance or deduction not allowed by the said act or acts respectively, or of having returned the amount or value of any property or profits at less than the sum which ought to be returned according to the said acts respectively, if he shall consent or agree to such charge, to give notice in writing of his consent accordingly to the said surveyor or inspector; who shall certify such consent, and the amount of the single duty which ought to be charged to the said commissioners, according to which certificate the party charged, and consenting thereunto, shall be assessed in the single duty, and such consent shall be deemed equivalent to an amended return and declaration as required by this act; or if such person so charged, if he shall not so consent or agree, may amend, by delivering to the surveyor or inspector, a supplementary list &c. according to the directions of the said acts respectively, and as the case may require, to which a declaration in writing shall be annexed to the effect herein-after mentioned; and the said surveyor or inspector shall be at liberty to certify his satisfaction therewith, or his objection thereto, to the said respective commissioners; according to which certificate the party charged shall be assessed in the single duty if such surveyor or inspector shall be satisfied therewith, or in the double duty in the manner herein-before directed, in cases where no previous return shall have been made, and as the case may require, subject to the like power of appeal from such objection, and to the like proceedings in all other respects as are before given.

21.—Every such last-mentioned declaration shall allege and declare the grounds and cause of each omission made or mentioned in such notice of charge, to have been made in such former return, and also the grounds and cause of each claim of exemption, allowance, or deduction, and also that the return to which the said declaration is annexed is a full, perfect and complete return of all matters and

On charges for any omission in a return the double duty may be avoided by making a new return with a declaration annexed.

Charge to be made in the single duty, unless surveyor certify his objection.

Form of declaration in cases of charge for defective returns.

things required of him by the said act or acts, or by this act, to which the said charge shall relate, to the best of his judgement and belief, and that such omission or claim was not made with intention to defraud the revenue; which said last-mentioned declaration and return shall severally and respectively be signed and attested in the manner before directed in cases of other declarations and returns before mentioned.

No declaration to be required if the party give notice in writing to surveyor that his return is correct, &c.

12.—No return or declaration shall be required of any property &c. of which the party charged shall have made a due return for the same year, but the same party shall be at liberty to give notice in writing to the said surveyor or inspector that he doth abide by such former return; or may make out and deliver a supplementary return and declaration in the manner before directed; which return and declaration, together with the return before made, subject nevertheless to objection as aforesaid, shall be deemed full returns, if the same shall together include all things for which the party shall be chargeable; and no person shall be liable to the penalties contained in this act for any thing which shall have been returned by him in manner aforesaid, so that he might have been fully charged to the said respective duties chargeable thereon, but only for such things which shall not have been returned by him as aforesaid.

Providing against vexatious charge.

13.—If any surveyor or inspector shall wilfully make any false and vexatious charge of any of the said duties, or shall wilfully deliver or cause to be delivered to the respective commissioners for executing the said acts or any of them, any false and vexatious certificate of charge of, or any false and vexatious certificate of objection to any supplementary return, or shall be guilty of any fraudulent, illegal, or unjust conduct in the prosecution of any charge of any of the said duties, or shall wilfully neglect the duty of his office, or in any manner offend against the laws for regulating the duty of his said office, and the same shall be proved on the certificate of the said respective commissioners of the division where such offence shall be committed, or any two or more of them, or on the affidavit on oath or solemn affirmation, to be taken before any one of the said respective commissioners, of any credible person to the satisfaction of the commissioners for the affairs of taxes, or any two or more of them, or by the confession of the said surveyor or inspector, it shall be lawful for the said commissioners for the affairs of taxes, for any such offence, to suspend the payment to the said surveyor or inspector of all or any reward, emolument or advantage which the said surveyor or inspector would be entitled to under the said acts or any of them, for any in-crease

crease of duty or overplus above the rate of duty occasioned by the information or charge of the said surveyor or inspector, or such part thereof as the said commissioners for the affairs of taxes shall deem just, and finally to withhold the same, and direct the same to be paid by the receiver general into his majesty's receipt of exchequer; unless the lords commissioners of his majesty's treasury shall think fit to restore the same to the said surveyor or inspector, or to mitigate and lessen the sum to be withheld and paid over into his majesty's exchequer: provided always, that nothing herein-before contained shall be construed to impeach or affect any action or suit for the recovery of any penalty imposed by any former act or acts, against such surveyor or inspector for any such offence or offences, or for any false and vexatious charge of any of the said duties.

84.—Where any person thinking himself overcharged or over-rated by any charge or certificate of objection by any surveyor or inspector as aforesaid, or by any assessment to be made in pursuance thereof, shall have appealed to the said commissioners according to the directions of the said act respectively, the appellant shall, upon the hearing such appeal, in all cases where a list &c. shall or ought to have been delivered by the said appellant to the assessor, produce or cause to be produced before the said commissioners a complete list &c. as the case may require, to the best of the judgement and belief of the said appellant, with a declaration thereunto annexed, to the effect hereinafter mentioned; (that is to say), the said appellant shall declare that the list, statement, account or estimate to which the said declaration is annexed, doth contain all matters and things required of the said appellant to be returned by him or her, for which he is chargeable by virtue of any act or acts, to the best of his judgement and belief; which return and declaration shall severally and respectively be signed by the said appellant in the proper name and hand writing of the said appellant; and in default of the production of such list &c. by or on the behalf of the said appellant, with such declaration annexed, the said commissioners shall confirm the charge or objection against which such appeal was made.

Persons overcharged may appeal to the commissioners.

Upon hearing of appeals the appellant shall produce lists, &c.

Charges to be confirmed in default of production of such lists, &c.

85.—Upon every charge confirmed by the respective commissioners, in the whole or in part, upon which any increase of duty shall be made, the assessments thereupon shall be made in double the amount of duty which shall have been charged in the supplementary assessments on occasion of such charge, unless where the same is otherwise provided for by this act.

Assessments to be made in double duty, &c.

Double duty may be remitted, where the surveyor might have amended the assessment by the return.

Double duty may be remitted where the default has been corrected by the party's return.

Moiety of double duty may be remitted where the default has not been fraudulent.

If prevented from making amended return by sickness, the whole of double duty may be remitted &c.

15.—Where an amended return, with a declaration annexed thereto, shall not be delivered to the surveyor or inspector, and where no list &c. with such declaration annexed shall be produced to the said commissioners, on the hearing of such appeal, it shall not be lawful for the said respective commissioners to make any abatement, deduction or remission of the said double duty or any part thereof, but the same shall remain part of the annual assessment; unless the party charged shall have given notice of his consent to the charge of the said surveyor or inspector, or unless the said respective commissioners shall be of opinion, that the said surveyor or inspector was enabled to correct or amend the first assessments of the said duties for that year, according to the directions of this act, by means of the original return of the party charged, in which cases the commissioners who shall have confirmed such charge, shall at the same time strike off the whole of the said double duty.

17.—Upon every charge confirmed upon appeal, if the said commissioners shall, after examination of the appellant, or by other lawful evidence produced on his behalf, as directed by the said acts respectively, be of opinion that the alleged default, neglect, omission, or claim of exemption, allowance or deduction, hath been duly accounted for, and that the causes have been truly stated in any amended return and annexed declaration, and that the appellant had a just or reasonable cause of controversying the said charge, and that the said default &c. was not wilfully made and with intention to defraud the revenue, the said commissioners who shall have determined the said appeal, although they shall have confirmed the charge in part or the whole at the same time shall strike off the whole of the double duty.

18.—Upon every charge confirmed upon appeal, although no amended return shall have been delivered to the surveyor or inspector as allowed by this act, if the said commissioners shall after examination of the appellant, or by other lawful evidence produced on his or her behalf, as directed by the said acts respectively, be of opinion that the alleged default &c. was not wilfully made, and with intention to defraud the revenue, the said commissioners who shall have determined the said appeal, shall at the same time remit and strike off any part of the said double duty, not exceeding one moiety thereof; provided that if the appellant shall prove that he hath been prevented from making such amended return within the time herein limited by absence or sickness or other sufficient cause, and that such default &c. was not wilfully made, and with intention to defraud the revenue, the said commissioners shall

shall remit and strike off the whole of the said double duty.

19.—Nothing herein contained shall be construed to grant the double duty, or any part thereof, on any of the said duties, if the party charged shall not by the laws in force at and immediately before the passing of this act, be directed to return the matter on which the said duties shall be chargeable, and for which the said party was so charged.

No double duty where the party is not required to make a return.

20.—Every increase of duty made by occasion of such charges, whether the whole of the double duty shall be remitted or not, and also the double duty, or such part thereof which shall not be remitted, shall be certified on the supplementary assessments to be made for each year under the hands of the said respective commissioners or any two of them, to the commissioners for the affairs of taxes; and the said commissioners for the affairs of taxes shall have authority to direct the receiver general who shall have received the said increase and double duty, to pay to the said surveyor and inspector out of the same in such proportions as they shall think proper, or to either of them as they see fit, any sum of money not exceeding the rate which shall have been settled by the lords commissioners of the treasury, or the high treasurer for the time being, as a reward for their labour and diligence in making such increase of duty; and the certificate of the said commissioners for the affairs of taxes or any three or more of them, shall be a warrant to the said receiver general to pay the same.

Reward may be given to officers

21.—The determination of the commissioners acting for the general purposes of the acts relating to the duties arising from the profits of property, professions, trades or offices, upon any objection made by the surveyor or inspector of the said duties to the estimate or value of any property, or to the estimate of the profits of any profession, trade, or office on which any assessment after appeal shall be made, shall be construed to preclude a further charge on the same person for the same property or profits for the same year of assessment; and in like manner the determination of the said commissioners upon every such objection to the estimates or value delivered by the assessors of the property in any parish, ward or place in which assessments after appeal shall be made, shall preclude a further charge on the same property in the same parish &c. in that year.

Charges not to be made after objections to the estimate of any property.

22.—The objection of any surveyor or inspector to the estimate of any person, or of the assessor of any parish &c. or any assessment of additional commissioners in pursuance

Charges may be made after objections in certain cases.

fuance of the said last-mentioned acts, in relation to the duties arising from the profits of property, professions, trades, and offices, shall not be construed to preclude his afterwards charging the same person for any other property, or the profits of any other profession &c. not included in the estimate or assessment so before objected to, and determined; nor to preclude any surveyor or inspector from afterwards objecting to any other estimate or assessment, or from afterwards charging any other person in the same parish &c. or in any other parish &c. in the same or any other division, in respect of any property, or the profits of any profession &c. not before objected to and determined as aforesaid; and the respective commissioners acting for the general purposes of the said last mentioned acts are strictly enjoined to sign and allow such last mentioned objections and charges according to the directions of the said acts, in respect of the powers therein given to such surveyor and inspector; provided, that all such objections and charges be made within the times herein respectively limited.

Objection to be made before assessment.

23.—After the passing of this act, every objection to the estimates directed to be made by the said last mentioned acts, in relation to the duties arising from the profits of property, professions, trades, or offices, shall be made before the first assessments on such estimates shall have been signed and allowed by the commissioners for the general purposes of the said acts, and not afterwards.

Charges to be made in a limited time.

24.—No charge upon any assessment under the said last mentioned acts, in relation to the duties arising from the profits of property &c. shall be allowed or signed, unless the certificate thereof shall be delivered to the respective commissioners before the expiration of three calendar months after the 5th Jan. in the year of such assessment, in case such assessment shall have been made on or before the said day, or if such assessment shall not then have been made, unless the certificate of charge thereon shall be delivered to the said commissioners within three calendar months after such assessment shall have been made, except in the cases herein-after mentioned.

When charges of property omitted may be made.

25.—If any person shall have neglected to make a return of property or profits as required by the said last mentioned acts, and no estimate of the said property or profits, nor any assessment shall be made thereupon for any year, the surveyor or inspector, on discovery thereof at any time within twelve calendar months after the expiration of the year when such return ought to have been made, shall charge such person to the amount which ought to have been returned, in like manner as such person might have been

been

been charged within the year of assessment; and the like proceedings shall be thereupon had, as if made within the year of assessment; and every assessment thereupon made shall be added to the current assessments of the parish &c. in the manner herein directed.

26.—If any person shall by any falsehood, wilful neglect, fraud, covin, or contrivance whatever, escape from taxation for the profits of any distinct property &c. for any year, it shall be lawful for the surveyor or inspector, within the like period of twelve calendar months as aforesaid, to charge such person to double the amount of duty which ought to have been charged in the year of assessment upon such distinct property &c. and upon proof of such falsehood &c. to the satisfaction of the commissioners to whom such charge shall be certified, the assessment on the said double duty shall stand good, and be added to the supplementary assessments of the current year of the parish, ward, or place; and no part thereof shall be remitted on any pretence whatever.

In case of fraud, charge to be made.

By s. 2. The several provisions in the preceding clause of this act, relating to charges in the single duty as aforesaid, shall be construed, so far as the same respect the duties of assessed taxes, as applicable to the provisions of the 43 G. 3. c. 141.; and any other act or acts for regulating the said duties respectively, and relating to surcharges in the double duty, and as far as the said provisions respect the duties arising from the profits of property &c. the same shall be construed as applicable to the provisions of the 46 G. 3. c. 65.

Provisions relating to charges in single duty, and relating to surcharges in double duty, shall be construed as applicable to the provisions of 43 G. 3. c. 141. and 46 G. 3. c. 65. &c.

s. 3. Relates to commissioners against whom suits may be commenced.

Commissioners acting not liable to suits.

By s. 4. The provisions of 43 G. 3. c. 141. respecting giving notice of beginning or ceasing to keep the different subjects of taxation repealed.

By s. 5. It is further enacted, that in respect of the duties of assessed taxes, the said respective commissioners shall cause the duplicates required by the said act to be made out after the time appointed by the said act for making the supplementary assessments of the said duties yearly, and within one month at farthest after all appeals from the said supplementary assessments shall have been heard and determined, and so that the same may be delivered to the receiver general, and to the commissioners for the affairs of taxes respectively, on or before the day to be appointed for the receipt of the last instalment of the said duties next after the fifth day of April yearly; and in respect of the duties arising from the profits of property &c. they shall cause the duplicates required by the said act to be made out after the time appointed by this act, for making the supplementary assessments

Time for making out and delivering duplicates of assessments under recited acts enlarged.

ments of the said last mentioned duties yearly, and within one month at farthest after all appeals from the said supplementary assessments shall have been heard and determined, and so that the same may be delivered to the receiver general and to the commissioners for the affairs of taxes respectively, on or before the day to be appointed for the receipt of the last instalment of the said last mentioned duties next after the 5th day of *July* yearly; and no clerk to the said respective commissioners who shall make out and deliver the respective duplicates required by the said act within the time aforesaid shall be sued or prosecuted for, or liable to the penalty contained in the said act by reason of not making out or delivering the said respective duplicates within the time directed by the said act.

No person having made out lists of the great & number of servants, &c. shall be compellable to make out a fresh list.

By *s. 6.* No person who shall have made, signed and delivered, or shall make &c. lists of the greatest number of servants or other male persons retained or employed, and of carriages, horses, mules and dogs kept by such person, or of having worn or used hair powder or any armorial bearings or ensigns, in the course of the year ending on the 5th day of *April* preceding the delivery of such list, and who shall continue so to do, in the like manner subject to the like duty as in the year to which such list related, and in the same ward &c. shall be obliged to make out, sign and deliver such lists or either of them, in any succeeding year, nor be subject to any penalty for omitting or neglecting so to do, so long as such person shall continue to reside in such ward &c.; and shall not be chargeable in any other ward &c. for any servant &c. kept by such person: provided always, that such person shall in each year deliver to the assessor of the ward &c. notice in writing that he is desirous of being charged for the same as in the preceding year; and every such notice shall be an authority for the said commissioners to charge such person in the first assessments for that year as in assessments of the preceding year.

In cases of charge where the omission was not wilfully made, double duty to be struck off.

By *s. 7.* In all cases of charge by any surveyor or inspector as aforesaid, of any of the duties on servants, carriages, horses, mules, and dogs, and for using hair powder, or armorial ensigns, where it shall be proved on appeal to the satisfaction of the said commissioners acting for the division, that there was any doubt whether the article so charged was rateable within the meaning of the said acts, or any of them, and that the omission thereof or alleged default was not wilfully made and with intention to defraud the revenue, it shall be lawful for such commissioners to remit or strike off the whole of the double duty chargeable on the person so charged.

By

By *f. 8.* Every person to be charged in pursuance of this act, by the certificates of any surveyor or inspector, shall have the full period of ten days after service of the notice of such charge, to deliver his amended return to such surveyor or inspector, according to the directions of this act, and no certificate of such charge shall be signed or allowed by the said commissioners, nor any appeal heard from such charge, before the expiration of such ten days; and if the person so charged shall before the expiration of the said period deliver a return and declaration as aforesaid, which the said surveyor or inspector shall object to, then such return and declaration shall be deemed to be a sufficient notice of appeal from such charge to the commissioners of the division, who shall hear and determine the matter thereof, according to the directions of this act; and if the person so charged shall not before the expiration of the said period of ten days deliver a return or declaration as aforesaid, the said commissioners, upon the appearance before them of the person charged, or some person on his behalf, and the delivery to them of such list, and declaration as is herein-before required on the day appointed for hearing appeals from the charges of such surveyor or inspector, shall hear and determine the charge, according to this act, notwithstanding the person so charged shall not have given any previous notice of his or her intention to appeal; provided that in default of the appearance of the party charged, or some person on his behalf, on such day of appeal, or in default of the production of such list, or declaration as aforesaid, the certificate of such charge shall be confirmed by the said commissioners.

Allowing time for delivering in amended return,

By *f. 9.* Any person in any such declaration, as aforesaid, wilfully and fraudulently declaring any matter which shall be false or untrue, and being thereof lawfully convicted, shall be judged guilty of a misdemeanor, and be committed to the gaol of the county, riding or shire where such offence shall be tried, for not exceeding six calendar months, and shall be fined in such sum, not exceeding treble the amount of duty for which such person shall have been charged, as the court before whom such trial shall be had shall think fit to order.

Persons making false declarations, guilty of a misdemeanor,

By *f. 10.* Any indictment for such misdemeanor in making a false declaration as aforesaid, whether such declaration shall be made within *Great Britain* or without, shall be laid tried and determined in the county, riding, or shire where such declaration shall be exhibited to the respective commissioners of the duties to which such declaration shall relate.

Indictment for false declaration to be laid in the county, &c. where exhibited.

And by *f. 11.* It is enacted, that whenever any schedule of arrears shall be transmitted by the respective commissioners

Arrears of duties may be collected by collectors.

tioners

tioners acting in the execution of the acts in relation to the duties therein mentioned, or any of them, to the receiver general of the said respective duties, and the commissioners for the affairs of taxes shall be of opinion that the said duties in arrear might more conveniently be collected by the respective collectors of the said duties in their respective districts, according to the directions of the several acts granting the said duties, or other acts relating to the said respective duties, than by process to be issued out of the court of exchequer, it shall be lawful for the said commissioners for the affairs of taxes, to direct the said receiver general to return the said schedules to the said respective commissioners from whom he or they received the same; and the said respective commissioners shall cause the said duties in arrear to be levied under all or any of the powers, and by any of the ways and methods prescribed in the said acts respectively, without delay.

No. V. Rules and directions for paying to the receiver general, and accounting for the duties received by the collectors.

Collectors to pay the duties on the next receipt, and to account twice each year,

- 1.—The several collectors shall pay to the receiver general or his deputy, all monies of the said respective duties which the said collectors shall have received or levied, by virtue of any of the acts herein mentioned, on the respective days herein appointed for payment of the said duties or any of them, next after their receipt of the same, and shall, twice in each year, account with such receiver general or his deputy in the manner herein-after mentioned, for all such duties; that is to say, for the duties of assessed taxes, the said collectors shall pay or account for one entire moiety thereof on the day to be appointed next after the 10th of *October*, and the remainder thereof on the day to be appointed next after the 5th of *April* in each year; and for the duties on property, professions, trades, and offices, the said collectors shall pay or account for entire moiety thereof on the day to be appointed next after the 5th day of *January* in each year, and the remainder thereof on the day to be appointed next after the 5th day of *July* following; on which last mentioned days appointed for payment to the said receiver general or his deputy, of the said respective duties, viz. on the day appointed next after the 5th day of *April* yearly, for the payment of the last moiety of the duties of assessed taxes, and on the day appointed next after the 5th day of *July* yearly, for payment of the last moiety of the duties on property, professions, trades, and offices, the full

full and entire amount of duties, penalties, and sums of money contained in the said supplementary assessments of the said respective duties, shall also be paid to the receiver general or his deputy, or accounted for to him or them in manner herein-after directed; for which payments, the said receiver general or his deputy shall give to such collectors receipts in writing, distinguishing the amounts received for the duties on assessed taxes from the amount received for the duties on property, professions, trades, and offices, and from all other duties payable to his majesty, and for which receipts no stamp duty shall be charged or chargeable, any statute to the contrary thereof notwithstanding: provided, that if any collector shall not at or before the respective times herein-before limited, have received or levied the said respective duties, or shall not then account to the receiver general or his deputy for the same, in the proportions before directed, he shall deliver to the said receiver general or his deputy, at the respective times appointed for such payments, or to the commissioners of the division, within three days after the respective times aforesaid, a schedule in writing, signed by such collector, containing the christian and surname of each defaulter, and the respective sums then in arrear from each such defaulter, with an affidavit subscribed, to be made on the oath or affirmation of the said collector (which oath or affirmation may be taken before any one commissioner of the division) that the several sums contained in the said schedule have been demanded from, and are due and wholly unpaid from the respective persons charged therewith, either to such collector, or to any other person for such collector, to the best of his knowledge and belief.

Receipts to be given for each payment.

In default of paying the full amount, a schedule of arrears to be given.

- 2.—Every such schedule, being certified under the hand of the receiver general or his deputy of the county or division where the said arrears accrued to the court of exchequer at *Westminster*, shall be received and taken as sufficient evidence of a debt due to his majesty, and shall be a sufficient authority to the barons of the said court, or any one of them to cause process to be issued against such defaulter named in the said schedules, to levy the whole sum in arrear and unpaid by such defaulter; and the sheriff or other officer to whom the said process shall be directed, shall, without delay, cause the whole sum in arrear to be levied by due course of law as a debt to his majesty on record, with all costs and expences attending the same, and shall pay the monies so levied, after deducting the said costs and expences, to the said receiver general or his deputy, and shall make return of the said

The certificate of such schedule to be ground of process.

process

Schedule to remain with commissioners for a certain time, during which commissioners may levy warrants.

process to the said court, according to the due course thereof: provided that every such schedule shall remain with the commissioners of the division for the space of forty days before the certificate thereof shall be transmitted to such court, during which period of forty days every such collector shall give due notice of such schedule to the several defaulters named therein, in such manner as the said respective commissioners shall direct, on pain of forfeiting the like penalty as is imposed on collectors by the said several acts, or any of them, in other cases of neglect of duty; and it shall be lawful for every such defaulter within the like period to pay his arrears to the said collector, whose receipt shall be a sufficient authority to the said commissioners to discharge the arrears so paid from the said schedule; and it shall also be lawful for the said commissioners, if they shall see cause, to issue fresh warrants to collect the said arrears, or any of them, within the said period of forty days, and during that period to use all or any the methods prescribed by the several acts relating to the said respective duties, for the recovery of the said arrears, or direct the said arrears to be levied by the respective collectors under their former warrants, as shall be most expedient; and all warrants to be issued for that purpose may be directed either to the said collectors, or to the high constable, constables, or other peace officers, within the limits of their division, or any one or more of them, or to any other person whom the said commissioners shall think proper, with authority to levy by distress and sale, in the manner directed by the said acts respectively, the sums in arrear, together with all costs and expences attending the said process and the execution thereof; and the sums so levied, after deducting the the said costs and expences, shall be paid to the receiver general or his deputy, at such time and place as the said receiver general shall appoint, and shall be discharged from the said schedule; and all high constables, constables, and other peace officers, within the said division, shall act in obedience to the directions of the said commissioners, and shall execute all such orders and process as shall be to them or any of them directed, for the recovery of the said arrears: provided also, that when the commissioners of the division shall certify to the commissioners for the affairs of taxes any reasonable cause for non-payment of, or for not proceeding to levy any part of the said arrears included in the said schedule, and that they have good reason to believe the same will be paid within a reasonable time, to be stated in such certificate, it shall be lawful for the said commissioners of the division to retain the said

the said schedule in their hands, for such farther time as shall be necessary, and as shall be mentioned in their aforesaid certificate.

3. In default of such schedule being delivered within the space of three days as aforesaid, either to the receiver general or his deputy, or to the said commissioners, the receiver general, to whom the payments of the said duties shall not have been made in the proportions herein prescribed, and at the times above mentioned, shall certify to the said court of exchequer the amount of the duties remaining unpaid to the best of his knowledge and belief, and the particular ward, parish, or place, and the division where such failure hath happened, together with the names of the collectors of the said parish, ward, or place; and such certificate under the hand of such receiver general or his deputy, shall be a sufficient authority to the barons of the said court, or any one of them, to cause process by way of distringas to be issued out of such court against the said collector, upon which writ of distringas the sheriff or other officer to whom the said process shall be directed, shall return such issues from time to time as such court or baron shall order, until a return of such schedule and arrears shall have been made to the said court, and immediate process shall thereupon issue for levying the said arrears out of and under the seal of such court, which levy shall not be remitted unless all the said duties in arrear shall be paid or satisfied before the return of such process.

In default of such schedule receiver general may certify the default to the exchequer.

4. On each half-yearly day of payment, as herein is directed, the surveyor of the district shall, on notice thereof, from the receiver general or his deputy, attend with such of the duplicates of assessment as shall have been delivered to him, and as shall be required by the said receiver general or his deputy, and shall assist in adjusting the accounts of payments and of arrears, and shall also assist the collectors in making out their schedule of arrears to the best of his judgement.

Surveyor to attend the receiver general at his receipt.

5. The duties contained in any schedule of arrears as aforesaid, which shall be paid to such collector within the period of forty days before-mentioned, or within such further period as shall have been stated in the certificate of the commissioners for the retention of such schedule as before mentioned, shall be paid over to such receiver general or his deputy, at such time and place as the said receiver general shall appoint.

Providing for payment of duties to receiver general, where the arrears have been levied.

6. Whenever any collector shall have advanced and paid to the receiver general, or his deputy, any sum of money for or on account of the duties assessed on any other person, whether at his request or not, it shall be lawful

Collectors advancing duties empowered to levy the sum paid.

for such collector in default of repayment to him at any time within the space of six calendar months after such payment, to levy the said duties by the like ways as such collector might have levied the same before such payment thereof to such receiver general, or his deputy, and as if such duties had not been paid or satisfied.

Commencement
of the rules.

By *f.* 2. this act, as to all matters contained in the rules of the preceding clause, shall commence from and after the 31st of *Dec.* 1808, in respect of all assessments to be made for any year after the 5th of *April* 1809.

No list of any
article so charg-
ed shall be re-
quired, if proved
to be returned
before the date
of the notice.

By *f.* 3. in cases of surcharge under the said acts relating to the assessed taxes, no list, affidavit, or oath shall be required of any matter or thing which the party surcharged shall prove to the satisfaction of the commissioners of appeal to have been duly returned before the date of the said notice, in any list delivered by the said party for the year for which such surcharge shall be made; and either the said return or a certificate thereof, signed by two commissioners of the division where the return shall be made, shall be received conclusively as proof thereof; and the return required by the said acts shall be deemed full returns, if the amended return, together with the returns before made, shall include all matters and things for which the party so surcharged shall be chargeable; and no person shall be liable to surcharge for any matter, or thing before returned by him, according to the directions of the said recited acts or of this act.

Penalty on in-
spectors and
surveyors ne-
glecting to attend
meetings of the
commissioners.

And by *f.* 4. When the commissioners of any division shall have fixed the day of appeal against the surcharges made by any inspector or surveyor, under any of the said acts, and shall have caused due notice thereof to be given, according to the said acts, and the said inspector or surveyor having like notice thereof, shall wilfully neglect to attend the meeting of the said commissioners, held in pursuance of such notice, whereby the commissioners shall be prevented in proceeding to hear such appeals, it shall be lawful for the said commissioners to allow to each appellant attending such meeting, a reasonable compensation for such attendance, to be settled by the said commissioners, and paid to such appellants respectively by the receiver general of the said duties, or his deputy, on the production of the certificates of any two or more of the said commissioners, testifying such allowance.

No. VI.—Of the inspectors general.

His majesty, &c.
may appoint ten
persons to be in-
spectors general,
and allow them
&c.

By *f.* 5. It shall be lawful for his majesty, his heirs and successors, or the lords commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, from time to time to constitute and

and appoint, for *England* and *Wales*, such persons, not exceeding ten in number at any one time, as they shall think proper to be inspectors general for the special purposes of this act, herein-after specified and declared; and to allow to such inspectors general such reasonable salaries, charges and expences, as may be necessary for their pains in executing this act in the several particulars herein-after mentioned; and no person to be appointed inspector general under this act shall be entitled to amend any assessment made under the said acts, or to surcharge any person or persons in respect thereof; nor shall any such person have to receive or claim any advantage or emolument from any assessment or surcharge to be made under any of the said acts, nor any other emolument than such salary and allowance.

The powers to be vested in the inspectors general.

- 1.—It shall be lawful for such inspectors general to visit from time to time each inspector and surveyor acting in the execution of the several acts relating as well to all the duties aforesaid, within the limits of the circuit for which he shall be appointed, and to examine any of the books and assessments, and duplicates, or certificates of assessment or surcharge in the hands or power of such inspector or surveyor; and also to enquire into the conduct of every such inspector and surveyor, in the execution of their respective offices, and into their fitness and capacity to execute the same, and to report from time to time on the several matters aforesaid to the commissioners for the affairs of taxes; and every such inspector and surveyor shall attend such inspector general at such time and at such place, within the district of such inspector and surveyor, as the said inspector general shall appoint, and shall have given three days notice of, to such inspector or surveyor. To visit inspectors and surveyors.
- 2.—It shall be lawful for every such inspector general to administer to any such inspector or surveyor, whenever he shall see occasion to examine him in any matter touching the execution of the said acts, an oath that he shall true answer make to all such questions as shall be demanded of him; and the substance of the answers given shall in his presence be reduced into writing, and read to him with liberty to alter and amend the same in any particular; and he shall sign his assent to the same in his own name, and in his usual manner of writing or signing the same. To administer an oath to inspectors and surveyors.
- 3.—It shall be lawful for every such inspector general as aforesaid, whenever he shall see occasion, to report to the commissioners of the division on any matter or thing touching the execution of the said acts or this act in relation to any assessments in such division, or touching the conduct Inspector general may report to commissioners of division.

conduct of any clerk to such commissioners, or of any assessor or collector appointed under the said acts or this act, together with the opinion of such inspector general thereon; and every such inspector general shall transmit a duplicate of such last-mentioned reports to the commissioners for the affairs of taxes; and whenever any inspector general shall have reported to the commissioners of any division, any such matter which, in the opinion of such inspector general, shall require the particular consideration of the commissioners of such division, it shall be lawful for them to hold a meeting for that purpose, and they are hereby required to hold such meeting within a reasonable time after such report, at which meeting, such inspector general may attend for the purpose of explaining the matters contained in the said report, and of suggesting for their consideration the propriety of adopting such order or orders as may be agreed upon by the major part of the commissioners of such division who shall be present at such meeting.

In certain instances, a case to be transmitted to commissioners for taxes.

- 4.—If any inspector general as aforesaid, or any commissioner for the division, who shall have been present at any meeting of commissioners at which the report of such inspector general shall have been taken into consideration as aforesaid, shall apprehend the determination made by the commissioners at such meeting on the said report, or any of the matters therein contained, to be contrary to the true intent and meaning of the said acts relating to the said duties respectively, or any of the said acts, it shall be lawful for such inspector general, and for any one or more of the commissioners for the division, present at the time of such determination respectively, to require a case to be prepared, and signed by the said commissioners for the division; in which case the said commissioners shall state specially the parts of the report of the said inspector general, and the facts on which the question arose together with their determination thereupon, and any other circumstances influencing the said commissioners in such their determination, and which case the said commissioners, or the major part of them then present, are hereby required to state and sign accordingly, and to cause the same to be transmitted to the commissioners for the affairs of taxes, who shall forthwith submit the same to the judges of the courts of record at *Westminster*; and such judges, or any two or more of them, are hereby required, with all convenient speed, to return an answer to such case so transmitted, with their opinion thereon subscribed thereto, and what ought under all circumstances to be done therein, according to which opinion and directions

tions so certified, the determination of the commissioners which shall have been so objected to, and which shall be stated in such case, shall be confirmed, reversed, altered, or amended, as the case may require, and if any assessments shall be depending on such determination of the said commissioners, the same shall also be altered or confirmed according to the said opinion.

By *f. 12.* The several parishes and places, or parts of parishes or places set down in the first column of the following schedule and which have been heretofore charged to the said respective duties, or either of them, in the respective divisions mentioned in the second column of the said schedule, and set opposite thereto respectively shall from and after the passing of this act be charged to the said respective duties in the divisions, and shall be subject to the jurisdiction of the commissioners and persons acting under them, and to the inspectors and surveyors of the division mentioned in the third column of the said schedule, and set opposite thereto respectively.

SCHEDULE referred to by the above clause.

Description of Parishes or Places.	Heretofore charged in	Hereafter to be charged in
Part of the parish of Workington, situate in the counties of Berks and Wilts.	Hundred of Amesbury, Wiltshire.	Hundred of Sonning, Berkshire.
Part of the parish and town of Morpeth, in the county of Northumberland	Castleward, Northumberland.	Morpeth Ward, Northumberland.
Part of the parish of Gillingham, in the county of Kent, called the Grange, parcel of the liberty of Hastings, in the county of Sussex	Town and port of Hastings, county of Sussex, and liberty thereof.	Rocheſter diſtrict, part of the Lathe of Ford, county of Kent.
Buſhton, part of the pariſh of Cleeve Pyhard, in the county of Wilts	Hundred of Elſub and Everley, Wiltſhire.	Hundred of Kingsbridge, Wiltſhire.
Little Hinton, in the county of Wilts	The ſame.	The ſame.
Wroughton, in the county of Wilts	The ſame.	The ſame.

By *f. 13.* Nothing in this act shall extend to any of the **Exceptions.** cases herein-after specified; (that is to say,)

1st.—To the duties granted by an act, passed in the thirty-eighth year of the reign of his present majesty, by way of a land tax.

2^d.—To the duties granted, or to be granted, by any act or acts of parliament for one year, for the service of such year.

Thames.

CONCERNING regulations of the navigation on the river of *Thames*; the same being not general, it will be sufficient only to mention the several acts touching the same; viz.

2 & 3 <i>P. & M. c. 16.</i>	10 <i>G. 2. c. 31.</i>
1 <i>J. c. 16.</i>	24 <i>G. 2. c. 8.</i>
6 & 7 <i>W. c. 21.</i>	2 <i>G. 3. c. 28.</i>
11 & 12 <i>W. c. 21.</i>	11 <i>G. 3. c. 45.</i>
4 <i>An. c. 13.</i>	14 <i>G. 3. c. 71.</i>
9 <i>An. c. 26.</i>	16 <i>G. 3. c. 43.</i>
2. <i>G. 2. c. 26.</i>	17 <i>G. 3. c. 18.</i>
4 <i>G. 2. c. 24.</i>	34 <i>G. 3. c. 65.</i>
5 <i>G. 2. c. 20.</i>	39 & 40 <i>G. 3. c. 87.</i>
6 <i>G. 2. c. 29.</i>	43 <i>G. 3. c. 115.</i>
	47 <i>G. 3. ffs. 1. c. 37.</i>

which, containing matters that respect the regulation of watermen, the prevention of frauds on the said river, &c. rather regard *London* and its jurisdiction, than the duty of those for whom this book is calculated, and are therefore omitted.

Theft. See *Larceny*.

Theftbote. See *Felony*.

Thread.

BY 28 *G. 3. c. 17.* after the first *June 1788*, all reels used in reeling or making up that kind of thread called *ounce* or *nun's thread* shall be one yard or 36 inches in circumference; and whoever shall use any reel of less circumference for that purpose shall, on conviction, forfeit such reel, which shall be destroyed, and also 5*l.* for every such offence, to the informer. *s. 1.*

And all *ounce* or *nun's thread* manufactured in *Great Britain* shall be made up in hanks, ounces, quarters, and pounds, avoirdupoise weight; each hank to contain 30 threads or rounds of the said reel, of the same quality and fineness; and each ounce to contain a particular number of such hanks entire of the same quality and fineness and no fractions or broken parts of a hank; and each quarter to contain four such ounces, and each pound four such quarters; and the cover of each pound or smaller package of such thread shall be marked with a stamp, ascertaining the contents of such package to be ounce or nun's thread, and shall specify the number of hanks in each ounce thereof, and

and exprefs the manufacturer's name and place of abode. And no perfon fhall reel or make up any fuch thread in any other manner than as aforefaid, or fell or expofe the fame to fale, knowing it to have been fo improperly reeled or made up, on pain of forfeiting fuch thread and alfo 10*l.* for every pound thereof, to the informer. But not to extend to thread of forty threads in the hank manufactured before 1*st* June 1788. *f.* 2.

If any perfon fhall counterfeit any mark or ftamp ufed by any manufacturer of fuch thread, or fhall mark any fuch thread with a counterfeit ftamp, or fell or expofe to fale any thread fo marked, knowing thereof, he fhall on conviction forfeit fuch ftamp, which fhall be deftroyed; and fhall alfo forfeit to the perfon whole ftamp is fo counterfeited the thread fo ftamped, and alfo 10*l.* *f.* 3.

And two juftices of the county or place where the offence is committed, or where the offender fhall refide or be found, may hear and determine all offences againft this act, who, on complaint in writing, may fummon the offender and witneffes on either fide, and on confeffion or the oath of *two* witneffes, give judgment, and levy the penalty by diftreffs and fale of the offender's goods or effects; which, if not redeemed in *ten* days, may be fold, returning the overplus, after deducting the charges of fuch diftreffs and fale; and for want of fufficient diftreffs fuch offender fhall be committed to gaol for three months, unlefs fuch penalty be fooner paid. *f.* 4.

Persons aggrieved may, upon giving fecurity to make good the fentence and to pay fuch cofts as fhall be ordered in cafe fuch judgment be affirmed, appeal to the next feflions, who may fummon and examine witneffes on oath, and finally hear and determine the fame; and in cafe the judgment be affirmed, they may order the appellant to pay fuch cofts as to them fhall feem meet. *Ib.*

And the faid juftices or feflions may mitigate any fuch penalties as to them fhall feem expedient, but in no cafe to be reduced below one half and cofts. *f.* 5.

Witness duly fummoned not attending without reasonable caufe to be allowed by fuch juftices, fhall forfeit 5*l.* to the profecutor, to be levied as aforefaid; and befides, fhall be liable to be compelled to appear upon another fummons under the like penalty, or any other means known and practifed in the law in fimilar cafes. *f.* 6.

When any thread fhall be feifed in purfuance of this act, and it is alleged to be of foreign manufacture, the *onus probandi* fhall lie upon the owner; and if he fail in fuch proof, the thread fhall be forfeited, and the owner be liable to the penalty aforefaid. *f.* 7.

Tiles. See Bricks.

X x 4

Time.

Schedule to remain with commissioners for a certain time, during which commissioners may levy warrants.

process to the said court, according to the due course thereof: provided that every such schedule shall remain with the commissioners of the division for the space of forty days before the certificate thereof shall be transmitted to such court, during which period of forty days every such collector shall give due notice of such schedule to the several defaulters named therein, in such manner as the said respective commissioners shall direct, on pain of forfeiting the like penalty as is imposed on collectors by the said several acts, or any of them, in other cases of neglect of duty; and it shall be lawful for every such defaulter within the like period to pay his arrears to the said collector, whose receipt shall be a sufficient authority to the said commissioners to discharge the arrears so paid from the said schedule; and it shall also be lawful for the said commissioners, if they shall see cause, to issue fresh warrants to collect the said arrears, or any of them, within the said period of forty days, and during that period to use all or any the methods prescribed by the several acts relating to the said respective duties, for the recovery of the said arrears, or direct the said arrears to be levied by the respective collectors under their former warrant, as shall be most expedient; and all warrants to be issued for that purpose may be directed either to the said collectors, or to the high constable, constables, or other peace officers, within the limits of their division, or any one or more of them, or to any other person whom the said commissioners shall think proper, with authority to levy by distress and sale, in the manner directed by the said acts respectively, the sums in arrear, together with all costs and expences attending the said process and the execution thereof; and the sums so levied, after deducting the the said costs and expences, shall be paid to the receiver general or his deputy, at such time and place as the said receiver general shall appoint, and shall be discharged from the said schedule; and all high constables, constables, and other peace officers, within the said division, shall act in obedience to the directions of the said commissioners, and shall execute all such orders and process as shall be to them or any of them directed, for the recovery of the said arrears: provided also, that when the commissioners of the division shall certify to the commissioners for the affairs of taxes any reasonable cause for non-payment of, or for not proceeding to levy any part of the said arrears included in the said schedule, and that they have good reason to believe the same will be paid within a reasonable time, to be stated in such certificate, it shall be lawful for the said commissioners of the division to retain the said

And first as to the small tithe act, 7 & 8 W. c. 6. In this For what tithes.
 case the prosecution must be for small tithes only, or compositions for the same; or for offerings, oblations, or obventions; and not otherwise. *f. 1.*

They must not amount to above 40s. 2 year, from any one person. *lb.*

They must have become due within two years next before the complaint. *f. 6.*

They must not be in *London*, nor in any place where the tithes are otherwise settled by act of parliament. *f. 5.*

And they must not have been begun to be sued for in the exchequer or ecclesiastical court. *f. 14.*

[Note; tithes, with regard to their several *kinds or natures*, are divided into *pradial*, *mixt*, and *personal*. *Pradial* tithes are such as arise merely and immediately from the ground; as grain of all sorts, hay, wood, fruit, herbs: for a piece of land or ground, being called in Latin *pradium*, (whether it be arable, meadow, or pasture,) the fruit or produce thereof is called *pradial*, and consequently the tithe payable for such annual produce is called a *pradial* tithe. *Mixt* tithes are those which arise not immediately from the ground, but from things immediately nourished by the ground, as by means of goods depastured thereupon, or otherwise nourished with the fruits thereof; as colts, calves, lambs, chickens, milk, cheese, eggs. *Personal* tithes are such profits as do arise by the honest labour and industry of man, employing himself in some personal work, artifice, or negotiation; being the tenth part of the clear gain, after charges deducted.—Tithes, with regard to *value*, are divided into *great* and *small*. *Great* tithes, are chiefly corn, hay, and wood. *Small* tithes, are the *pradial* tithes of other kinds, together with those which are called *mixt* and *personal*. *Offerings*, *oblations*, and *obventions* are the customary payments for communicants at *Easter*, for marriages, christenings, churching of women, burials, and such like.]

Of these demand must first be made. *f. 1.*

And if any person shall fail in the payment of the same by the space of 20 days after such demand, the person to whom the same shall be due may make complaint in writing (A) to two justices of the peace, neither of whom is patron of the church or chapel, nor interested in the tithes. *f. 1.*

H. 6 G. R. v. Furness. Order for non-payment of small tithes was quashed, because said only *upon complaint* generally, and the statute requires the complaint to be *in writing*. *1 Str. 264.*

Hereupon the said justices shall summon in writing (B) under their hands and seals, by reasonable warning, every person against whom such complaint shall be made. *f. 2.*

And

Demand of the tithes.

Complaint.

Summons.

for such collector in default of repayment to him at any time within the space of six calendar months after such payment, to levy the said duties by the like ways as such collector might have levied the same before such payment thereof to such receiver general, or his deputy, and as if such duties had not been paid or satisfied.

Commencement of the rules.

By *f. 2.* this act, as to all matters contained in the rules of the preceding clause, shall commence from and after the 31st of *Dec.* 1808. in respect of all assessments to be made for any year after the 5th of *April* 1809.

No list of any article so charged shall be required, if proved to be returned before the date of the notice.

By *f. 3.* in cases of surcharge under the said acts relating to the assessed taxes, no list, affidavit, or oath shall be required of any matter or thing which the party surcharged shall prove to the satisfaction of the commissioners of appeal to have been duly returned before the date of the said notice, in any list delivered by the said party for the year for which such surcharge shall be made; and either the said return or a certificate thereof, signed by two commissioners of the division where the return shall be made, shall be received conclusively as proof thereof; and the return required by the said acts shall be deemed full returns, if the amended return, together with the returns before made, shall include all matters and things for which the party so surcharged shall be chargeable; and no person shall be liable to surcharge for any matter, or thing before returned by him, according to the directions of the said recited acts or of this act.

Penalty on inspectors and surveyors neglecting to attend meetings of the commissioners.

And by *f. 4.* When the commissioners of any division shall have fixed the day of appeal against the surcharges made by any inspector or surveyor, under any of the said acts, and shall have caused due notice thereof to be given, according to the said acts, and the said inspector or surveyor having like notice thereof, shall wilfully neglect to attend the meeting of the said commissioners, held in pursuance of such notice, whereby the commissioners shall be prevented in proceeding to hear such appeals, it shall be lawful for the said commissioners to allow to each appellant attending such meeting, a reasonable compensation for such attendance, to be settled by the said commissioners, and paid to such appellants respectively by the receiver general of the said duties, or his deputy, on the production of the certificates of any two or more of the said commissioners, testifying such allowance.

No. VI.—Of the inspectors general.

His majesty, &c. may appoint ten persons to be inspectors general, and allow them salaries, &c.

By *f. 5.* It shall be lawful for his majesty, his heirs and successors, or the lords commissioners of the treasury, or any three or more of them, now or for the time being, or the high treasurer for the time being, from time to time to constitute and

and appoint, for *England* and *Wales*, such persons, not exceeding ten in number at any one time, as they shall think proper to be inspectors general for the special purposes of this act, herein-after specified and declared; and to allow to such inspectors general such reasonable salaries, charges and expences, as may be necessary for their pains in executing this act in the several particulars herein-after mentioned; and no person to be appointed inspector general under this act shall be entitled to amend any assessment made under the said acts, or to surcharge any person or persons in respect thereof; nor shall any such person have to receive or claim any advantage or emolument from any assessment or surcharge to be made under any of the said acts, nor any other emolument than such salary and allowance.

The powers to be vested in the inspectors general.

- 1.—It shall be lawful for such inspectors general to visit from time to time each inspector and surveyor acting in the execution of the several acts relating as well to all the duties aforesaid, within the limits of the circuit for which he shall be appointed, and to examine any of the books and assessments, and duplicates, or certificates of assessment or surcharge in the hands or power of such inspector or surveyor; and also to enquire into the conduct of every such inspector and surveyor, in the execution of their respective offices, and into their fitness and capacity to execute the same, and to report from time to time on the several matters aforesaid to the commissioners for the affairs of taxes; and every such inspector and surveyor shall attend such inspector general at such time and at such place, within the district of such inspector and surveyor, as the said inspector general shall appoint, and shall have given three days notice of, to such inspector or surveyor. To visit inspectors and surveyors.
- 2.—It shall be lawful for every such inspector general to administer to any such inspector or surveyor, whenever he shall see occasion to examine him in any matter touching the execution of the said acts, an oath that he shall true answer make to all such questions as shall be demanded of him; and the substance of the answers given shall in his presence be reduced into writing, and read to him with liberty to alter and amend the same in any particular; and he shall sign his assent to the same in his own name, and in his usual manner of writing or signing the same. To administer an oath to inspectors and surveyors.
- 3.—It shall be lawful for every such inspector general as aforesaid, whenever he shall see occasion, to report to the commissioners of the division on any matter or thing touching the execution of the said acts or this act in relation to any assessments in such division, or touching the conduct Inspector general may report to commissioners of division.

conduct of any clerk to such commissioners, or of any assessor or collector appointed under the said acts or this act, together with the opinion of such inspector general thereon; and every such inspector general shall transmit a duplicate of such last-mentioned reports to the commissioners for the affairs of taxes; and whenever any inspector general shall have reported to the commissioners of any division, any such matter which, in the opinion of such inspector general, shall require the particular consideration of the commissioners of such division, it shall be lawful for them to hold a meeting for that purpose, and they are hereby required to hold such meeting within a reasonable time after such report, at which meeting, such inspector general may attend for the purpose of explaining the matters contained in the said report, and of suggesting for their consideration the propriety of adopting such order or orders as may be agreed upon by the major part of the commissioners of such division who shall be present at such meeting.

In certain instances, a case to be transmitted to commissioners for taxes.

- 4.—If any inspector general as aforesaid, or any commissioner for the division, who shall have been present at any meeting of commissioners at which the report of such inspector general shall have been taken into consideration as aforesaid, shall apprehend the determination made by the commissioners at such meeting on the said report, or any of the matters therein contained, to be contrary to the true intent and meaning of the said acts relating to the said duties respectively, or any of the said acts, it shall be lawful for such inspector general, and for any one or more of the commissioners for the division, present at the time of such determination respectively, to require a case to be prepared, and signed by the said commissioners for the division; in which case the said commissioners shall state specially the parts of the report of the said inspector general, and the facts on which the question arose together with their determination thereupon, and any other circumstances influencing the said commissioners in such their determination, and which case the said commissioners, or the major part of them then present, are hereby required to state and sign accordingly, and to cause the same to be transmitted to the commissioners for the affairs of taxes, who shall forthwith submit the same to the judges of the courts of record at *Westminster*; and such judges, or any two or more of them, are hereby required, with all convenient speed, to return an answer to such case so transmitted, with their opinion thereon subscribed thereto, and what ought under all circumstances to be done therein, according to which opinion and directions

issuing of it, yet a *certiorari* was granted; and the return was filed, and exceptions were taken to it, and argued at the bar. Lord Mansfield Ch. J. delivered the opinion of the court; that the *certiorari* ought not to have issued at all; that the return should be taken off the file; and all proceedings thereon fall to the ground, and that the orders of the justices and sessions should be remanded. The order of the justices (he observed) was made on the statute of the 1 G. 2. c. 6. which extends the 7 & 8 W. c. 34., concerning tithes, to all customary payments due to clergymen. Those two acts are to be taken together as one law. They were intended for the benefit of the quakers; to prevent their being liable to expensive suits for refusing to pay tithes upon scruples of conscience, by giving an apparent compulsory method of levying tithes and other customary payments in a summary way. This proceeding cannot be removed by *certiorari*, unless the title to these customary payments comes in question; and on this proviso the present question arises. The affidavits read on the original motion for the *certiorari* set forth, that before the justices and the sessions the defendants controverted the right of the curate to these customary payments. The affidavits against the *certiorari* say, that these payments have been made from time immemorial; that no inhabitant ever disputed it but these quakers; that they have enjoyed the messuages but a few years, and that the former inhabitants never disputed the right of the parson. Taking these affidavits together, it is clear that the quakers controvert the right to the customary only as all quakers controvert the payment of all dues to all clergymen upon scruples of conscience, which is the case directly within the act, and the proceeding must therefore follow the directions of the act. The quakers themselves have acknowledged the jurisdiction of the justices, by appealing to the sessions; whereas had they intended to dispute the title to these customary payments, they would at first have removed the order of two justices by *certiorari*. The only difficulty remaining arises from the return being already filed. But there are several instances of this court superseding a *certiorari* after the return filed; as where an order of justices is removed, and it appears upon the return that the parties had a right to appeal to the sessions, and that the time for appealing was not expired when the *certiorari* issued; in such case, this court supercedes the writ of *certiorari quia improvidè emanavit*. The same must be done in the present case. *M.S.*

III. Of contempts for tithes in the spiritual court.

By the 27 H. 8. c. 20. If the ecclesiastical judge shall, for any contempt, contumacy, disobedience, or other misde-

Contempt of
process.

meanor.

meano^r of any defendan^t in the case of tithes make information and request to the justices of the peace of the shire where the offender dwelleth to assist him to order and reform any such person ; two of the said justices (1 2.) may cause the person to be attached, and commit him to ward, till he shall have found sufficient surety, to be bound to the king by recognizance or otherwise, to give due obedience to the process, proceedings, decrees, and sentences of the ecclesiastical court where the suit shall be. *f. 1.*

Contempt after
judgment.

And by the 32 *H. 8. c. 7.* If any person, after sentence definitive given against him in the ecclesiastical court, shall obstinately and wilfully refuse to pay his tithes, or duties, or sums of money adjudged for the same ; two justices (1 2.) may, upon information, certificate, or complaint in writing by the ecclesiastical judge, cause the party refusing to be attached and committed to the next gaol till he shall have found sufficient sureties by recognizance or otherwise, to perform the said definitive sentence and judgment. *f. 4.*

(A) Complaint for small tithes, on the 7 & 8 *W.*
c. 6.

TO J. P. and K. P. *esquires, two of his majesty's justices of the peace in and for the county of ——— A. I. of ——— in the said county, clerk, humbly complaineth,*

That he the said complainant did by the space of 20 days and upwards before the day of the date hereof demand of A. O. of ——— in the parish of ——— in the county aforesaid, yeoman, the small tithes, offerings, oblations, and obventions justly become due within two years now last past, from him the said A. O. unto him the said complainant, to the value of 4l. ; and that he the said A. O. did upon the said demand refuse and doth yet refuse to pay and compound for and hath not paid nor compounded for the same, nor any part thereof ; the said complainant therefore prayeth such redress in the premises, as to you shall seem meet, and as to the law doth appertain. Signed the ——— day of ——— in the ——— year of ———.

(B) Summons for small tithes, on the 7 & 8 *W.*
c. 6.

Westmorland. { To the constable of ———.

WHEREAS complaint in writing hath been made unto us ——— two of his majesty's justices of the peace for the said county, by A. I. of ——— in the said county, clerk, that A. O. of ——— in the parish of ——— in the said county, yeoman

man, hath for above the space of 20 days before the time of the said complaint so made unto us as aforesaid refused to compound for or to pay unto him the said A. I. and hath not yet compounded for nor paid the small tithes, offerings, oblations, and obventions, justly due from him the said A. O. to him the said A. I.; these are therefore to command you forthwith, upon sight hereof, to summon the said A. O. to appear before us at the house of ——— in ——— in the said county, on Saturday the ——— day of this present month of ——— at the hour of ——— in the forenoon of the same day, to answer unto the said complaint. And be you then there to certify what you shall have done in the premises. Given under our hands and seals at ——— in the said county, the ——— day of ——— in the ——— year of ———.

(C) Order for payment of small tithes, on the
7 & 8 W. c. 6.

Westmorland. **W**HEREAS complaint in writing hath been made unto us ——— two of his majesty's justices of the peace for the said county, by A. I. vicar of the parish of ——— in the said county, that A. O. of ——— in the said parish of ——— in the county aforesaid, yeoman, did refuse for the space of 20 days next before the time of the said complaint so made unto us as aforesaid to pay or compound for his small tithes, offerings, oblations, and obventions, arising in the said parish of ———, and due to him the said A. I.; We therefore the said justices, being neither of us patron of the parish church of ——— aforesaid, nor any ways interested in any of the said tithes, offerings, oblations, or obventions, having duly summoned the said A. O. before us, and having duly examined the truth and justice of the said complaint upon oath, do find that there is justly due from the said A. O. to the said A. I. the sum of 4l. being the value of the said tithes, offerings, oblations, and obventions, become due within two years last past; and do therefore adjudge and order the aforesaid A. O. to pay or cause to be paid unto the said A. I. the aforesaid sum of 4l. and also the sum of 10s. for the costs and charges of the said A. I. in prosecuting the said A. O. for the recovery of his said just dues. Given under our hands and seals at ——— in the said county, the ——— day of ——— in the ——— year of the reign of ———.

(D) Distress for small tithes, on the 7 & 8 W. c. 6.

Westmorland. { To the constable of ——— in the said county, and to the churchwardens of the parish of ——— in the said county, and to every of them.

WHEREAS upon the complaint in writing of A. I. vicar of the parish of ——— aforesaid, in the county aforesaid,
A. O.

A. O. of ——— in the said parish, in the county aforesaid, yeoman, hath been duly summoned to appear before us ——— two of his majesty's justices of the peace for the said county, to be examined for the non-payment of the small tithes, offerings, oblations, and obventions due unto the said A. I. ; and whereas we the said justices, being neither of us patron of the parish church of ——— aforesaid, nor any way interested in any of the said tithes, offerings, oblations, or obventions, have duly examined the truth and justice of the said complaint, and have ordered him the said A. O. to pay unto the said A. I. the sum of 4*l.* being the value of the small tithes, offerings, oblations, and obventions, become due from him the said A. O. to him the said A. I. within two years next before the said complaint so made unto us as aforesaid, together with the sum of 10*s.* for the costs and charges of the said A. I. for the recovery of his said just dues ; making in the whole the sum of 4*l.* 10*s.* ; And whereas it appeareth unto us the said justices that the said A. O. had due notice of our said order for the space of ten days and upwards before the day of the date hereof, but hath refused to pay and hath not yet paid the said sum of 4*l.* 10*s.* nor any part thereof ; these are therefore to command you jointly and severally that you, or some or one of you, do forthwith distrain the goods and chattels of the said A. O. and in case the said sum of 4*l.* 10*s.* together with your reasonable charges of making and detaining the said distress be not paid, or tendered to be paid by him the said A. O. in [four] days next after such distress made, that then you do make public sale of the said goods and chattels so distrained as aforesaid, and out of the money arising from such sale that you pay or cause to be paid unto him the said A. I. the said sum of 4*l.* 10*s.* and thereout also deduct and detain your reasonable charges of making, keeping, and selling the said distress ; and if any overplus shall remain after such payment and deduction as aforesaid, that then you do render the same unto him the said A. O. upon demand. Given under our hands and seals at ——— in the said county, the ——— day of ——— in the ——— year of ——— .

(E) Complaint for quakers' tithes, on the 7 & 8 W. c. 34. and 1 G. 2. c. 6.

TO J. P. and K. P. esquires, two of his majesty's justices of the peace for the county of ——— A. I. rector of the parish church of ——— in the said county [or as the case shall be] humbly complaineth ;

That A. O. of ——— in the parish aforesaid, in the county aforesaid, yeoman, being a person commonly called a quaker, hath refused to pay unto him the said A. I. or to compound for the tithes and other rights, dues, and payments belonging to the church of ——— aforesaid, and justly due to him the said A. I. from him the said A. O. ; the said complainant therefore prayeth such redress

dress in the premises as to you shall seem meet, and as to law doth appertain. Signed the — day of — in the — year of —.

(F) Summons of a quaker for tithes, on the 7 & 8 W. c. 34. and 1 G. 2. c. 6,

Westmorland. { To the constable of — in the said county.

WHEREAS A. I. clerk, rector of the parish church of — in the said county, hath complained unto us J. P. and K. P. esquires, two of his majesty's justices of the peace for the said county, that A. O. of — in the parish of — aforesaid, in the county aforesaid, yeoman, being a person commonly called a quaker, hath refused to pay unto him the said A. I. or to compound for the tithes and other rights, dues, and payments belonging to the church of — aforesaid, and justly due to him the said A. I. from him the said A. O.; these are therefore to require you forthwith to summon the said A. O. to appear before us at the house of — in — in the said county, on Saturday the — day of this present month of — at the hour of — in the forenoon of the same day, to answer unto the said complaint. And be you then there to certify what you shall have done in the premises. Given under our hands and seals at — in the said county, the — day of — in the — year of the reign of —.

(G) Order for quakers' tithes, on the 7 & 8 W. c. 34. and 1 G. 2. c. 6.

Westmorland. **W**HEREAS complaint hath been made unto us — two of his majesty's justices of the peace for the said county, by A. I. vicar of the parish of — in the said county, that A. O. of the parish of — aforesaid, in the county aforesaid, being a person commonly called a quaker, hath refused to pay to or to compound with him the said A. I. for his tithes, and other rights, dues, and payments belonging to the church of — aforesaid, and justly due unto him the said A. I.; We therefore the said justices, being neither of us patron of the parish church of — aforesaid, nor any way interested in any of the said tithes, rights, dues, or other payments, having duly summoned the said A. O. before us, and having also duly examined the truth of the said complaint upon oath, do find that there is justly due for the same from the said A. O. to him the said A. I. the sum of 10*l*. and do order and appoint the aforesaid A. O. to pay or cause to be paid unto him the said A. I. the aforesaid sum of 10*l*. and we do also order and appoint the aforesaid A. O. to pay

pay or cause to be paid unto him the said A. I. the further sum of 10s. for such cost and charges concerning the premises as upon the merits of the cause do appear to us just and reasonable. Given under our hands and seals at ——— in the said county, the — day of ——— in the — year of the reign of —.

(H) Distress for quakers' tithes, on the 7 & 8 W.
c. 34. 1 G. 2. c. 6.

Westmorland: { To the constable of —.

WHEREAS upon the complaint of A. I. vicar of the parish church of ——— in the said county, A. O. of ——— in the parish aforesaid, in the county aforesaid, yeoman, being a person commonly called a quaker, hath been duly summoned to appear before us J. P. and K. P. esquires, two of his majesty's justices of the peace in and for the said county, to be examined for non-payment of his tithes and other rights, dues, and payments, belonging to the church of ——— aforesaid, due unto him the said A. I. from him the said A. O.; and whereas the said justices, upon examination thereof, have by writing under their hands and seals ordered him the said A. O. to pay unto the said A. I. the sum of 10l. for such his tithes and other rights, dues, and payments, as aforesaid, and moreover the sum of 10s. for the charges of him the said A. I. in recovering the same, making in the whole the sum of 10l. 10s.; and whereas it appeareth unto me J. P. esquire, being one of the said justices, and also being one of the two next justices to the parish church of ——— aforesaid, in the county aforesaid, not being patron of the said church, nor any way interested in any of the said tithes, or other rights, dues, or payments, that the said A. O. hath had due notice of the said order, but hath refused and doth refuse to pay and hath not paid the said sum of 10l. 10s. nor any part thereof; these are therefore to authorize and command you that you do forthwith levy the aforesaid sum of 10l. 10s. by distress and sale of the goods and chattels of him the said A. O., and out of the money arising from such sale that you do pay or cause to be paid unto him the said A. I. the said sum of 10l. 10s. and thereout also deduct your necessary charges of distraining; and if any overplus shall remain, after such payment and deduction as aforesaid, that you do render the same unto him the said A. O. Given under my hand and seal at ——— in the said county, the — day of ——— in the — year of the reign of —.

Tobacco.

[12 C. 2. c. 34. §. 1. 4.—15 C. 2. c. 7. §. 18.—22 & 23 C. 2. c. 26.]

NO person shall plant any tobacco, on pain of forfeiting the same, or the value thereof, or 40s. for every rod or pole of ground planted with it; half to the king and half to him that shall sue in any court of record. 12 C. 2. c. 34. §. 1. And besides the said penalty, he shall moreover forfeit 10l. for every rod or pole; one-third to the king, one-third to the poor, and one-third to him that shall sue in like manner. 15 C. 2. c. 7. §. 18. Planting tobacco.

And by the 22 & 23 C. 2. c. 26. (Which by the 5 G. c. 11. is continued along with the act of tonnage and poundage of the 12 C. 2. c. 4.) the justices shall, a month before every sessions, issue their warrants to all high and petty constables, to search what tobacco is planted, cured, or made, and by whom; and to make presentment in writing on oath at the next sessions of the names of such persons as have planted cured or made any tobacco, and what quantity of lands is or was planted, and who are the tenants and occupiers thereof (who shall also be deemed the planters). §. 2.

Which presentment shall be filed by the clerk of the peace in open sessions; and after such filing shall be a sufficient conviction in law of the persons presented, unless such person presented (having notice given to him of the presentment by delivery of a copy thereof to him, or leaving such copy at his usual place of abode in the presence of one witness, ten days before the next quarter sessions,) shall at the next sessions after such notice traverse the presentment and find sureties for prosecuting and trying such traverse at the quarter sessions next after such traverse entered or made. §. 3.

And all constables, bailiffs, and other public officers, shall within 14 days after warrant from two justices, calling to their assistance whom they shall find necessary, pluck up, burn, consume, tear in pieces, and utterly destroy all tobacco seed, plant and leaf, planted, sowed, or growing in any field or ground. §. 4.

If any tobacco shall be suffered to grow, or be consumed in seed, plant, or leaf, by the space of 14 days after receipt of such warrant by the said constables or other officers; they shall for every offence forfeit 5s. for every rod, perch, or pole of ground planted with tobacco, and so proportionably for a greater or lesser quantity, half to the king, and half to him that shall sue. §. 5.

And if any shall refuse or neglect to assist the constable, he shall, on conviction before two justices, forfeit 5s. to be levied by warrant of the said justices by distress; and if no

distress can be found, to be committed to the common gaol for one week. *f. 6.*

And if any person shall resist the constable or other person in the due execution hereof, he shall on conviction before two justices, forfeit 5*l.* by warrant of the said justices by distress; and if no distress can be found, to be committed to the common gaol for three months. *f. 7.*

But nothing herein shall hinder planting the same in gardens for physic or chirurgery, so as the quantity planted exceed not half a pole of ground. *12 C. 2. c. 34. f. 4. 22 & 23 C. 2. c. 26. f. 9.*

Concerning the exportation of *Tobacco Pipe Clay*, [see *Woollen Manufacture*; and for other matters relating to *Tobacco* and *Snuff*, see *Excise, Tobacco*.

Torn.

[*13 Ed. 1. c. 13.—1 Ed. 3. c. 17.—31 Ed. 3. st. 1. c. 15.—9 H. 3. c. 35. Magna Charta c. 17.—32 H. 3. c. 10.—1 Ed. 4. c. 2.—1 R. 3. c. 4.*]

Torn, what.

THE sheriff's torn is the king's court of record holden before the sheriff, for the redressing of common grievances within the county. *2 Haw. c. 10. f. 2.*

Meaning of the word.

And forasmuch as the sheriff did go in circuit twice every year throughout every hundred within the county, it was called *tour* or *tourn*, which signifieth a circuit or perambulation. *2 Inst. 70.*

When to be holden.

By the *31 Ed. 3. st. 1. c. 15.* The sheriff shall make his turn yearly, once within a month after *Easter*, and another time within a month after *Michaelmas*; and if he holds it in other manner, he shall lose his turn for the time; that is, the court so holden for that time shall be void, and the sheriff shall lose the profit thereof. *2 Inst. 71.*

And he shall keep his turn no where but in due place and accustomed. *9 H. 3. c. 35.*

Who are to appear at the torn.

Peers, clergymen, and tenants in ancient demesne, are privileged from appearing at the torn. *52 H. 3. c. 10. 2 Haw. c. 10. f. 11.*

Also they that have hundreds of their own shall not be bound to appear at the torn, but in the bailiwicks where they be dwelling. *52 H. 3. c. 10.*

But all other persons, being above the age of 12 years, are bound to attend at such courts, in order to make inquiry of all common grievances, and also to give security to the public for their good behaviour, by taking an oath to be faithful to the king, and to observe his laws, and also by incorporating themselves

themselves into some free pledge or tithing, which formerly signified a certain number of families living together in the same precinct, the masters whereof were every one of them mutually bound for each other, and punishable for the default of any member of any such family in not appearing to answer for himself on any accusation made against him. 2 *Haw. c. 10. f. 2.*

No bailiff, or other officer, shall return or impanel any person upon an inquisition in the torn, but such as be of good name and fame, and have 20s. a year freehold within the shire, or 26s. 8d. customary or copyhold; on pain of 40s., and the sheriff other 40s. half to the king, and half to him that will sue; and an indictment otherwise taken shall be void. 1 *R. 3. c. 4.*

Jurors in the torn.

But if the party except not to it upon his arraignment, he is concluded by that omission. 2 *H. H. 70.*

And the jury shall put their seals to their inquisitions. 13 *Ed. 1. c. 13.*

Indictments in the torn shall be by roll indented, one part to remain with the indictors, and the other with him that taketh the inquest. 1 *Ed. 3. c. 17.*

Indictment to be indented.

It seems to be settled at this day that a distress is incident of common right to every fine and amercement in the torn; and that the offender's goods may be distrained in any lands within the precinct of the court, or in the highway; and that the goods distrained may be sold. But the bailiff must have a special warrant to make distress. 2 *Haw. c. 10. f. 25.*

Distress and sale.

Or the fine may be recovered by action of debt. *Id. f. 31.*

Within what time offences are cognizable in the torn.

But no offence is cognizable in the torn, unless it arise since the holding of the last court. *Id. f. 50.*

Traverse.

It seems to be agreed, that a presentment in the torn of any offence within the jurisdiction of the court, being neither capital, nor concerning any freehold, subjects the party to a fine or amercement, without any traverse. *Id. f. 76.*

By *magna charta, c. 17.* The sheriff is restrained in his torn from hearing and determining indictments of felonies; yet the sheriffs did commonly make out process or precepts in nature of a *capias* to arrest the parties; but by the 1 *Ed. 4. c. 2.* their power of making out process upon these indictments is taken away as well in cases of indictments of felony as other misdemeanors within their cognizance; but they are to deliver all such indictments and presentments to the next sessions, who are to make out process thereupon, and hear and determine them. 2 *H. H. 71.*

Indictment to be certified to the sessions.

And the estreats of the fines thereupon shall be inrolled, and by indenture be delivered to the sheriff, to the use of him that was sheriff at the time of the indictment so taken in the torn as aforesaid. 1 *Ed. 4. c. 2.*

Constables chosen in the torn.

The constables of common right are to be chosen and sworn in the torn or leet. 2 *Haw. c. 10. f. 37.*

Trade. See Apprentices.

Transportation.

[4 G. c. 11. f. 1.—6 G. c. 23. f. 1.—16 G. 2. c. 15.—c. 31.—8 G. 3. c. 15.—19 G. 3. c. 74.—24 G. 3. c. 56. *sess. 2*—31 G. 3. c. 46.—35 G. 3. c. 67.—42 G. 3. c. 28.—43 G. 3. c. 15.]

For felonies within clergy.

WHERE any person shall be convicted of grand or petit larceny, or any felonious stealing or taking of money or goods, within the benefit of clergy, and liable only to burning in the hand or whipping, (except persons convicted for receiving or buying stolen goods, knowing them to be stolen,) the court before whom he shall be convicted, or any subsequent court held with like authority, instead of ordering him to be burned in the hand or whipped, may order him to be sent as soon as conveniently may be to some of his majesty's plantations in *America*, for seven years; and shall have power to convey, transfer, and make over such offender, by order of court, to the use of any person who shall contract for the performance of such transportation, to him and his assigns for seven years. 4 G. c. 11. *f. 1.* 6 G. c. 23. *f. 1.*

By 24 G. 3. c. 56. *sess. 2. (a).* When any person at the assizes or sessions shall be convicted of grand or petit larceny, or any other offence, for which he shall be liable by the laws of this realm to be transported, the court before which he shall be convicted, or any subsequent court for the same county, may order him to be transported beyond the seas, for any term not exceeding the number of years for which he was liable by any law to be transported; and in such case the king, with the advice of his privy council, may appoint to which place beyond the seas, either within his majesty's dominions, or elsewhere out of his dominions, such offender shall be transported; and such court may order him to be transported to the use of any person and his assigns, who shall contract for the due performance of such transportation. *f. 1.*

For felonies without benefit of clergy.

And where any offender shall be convicted of any crime for which he is excluded the benefit of clergy, and the king shall be pleased to extend mercy to him, on condition of

(a) By the 42 G. 3. c. 28 *f. 1.* so much of the 24 G. 3. c. 56. (continued by 34 G. 3. c. 60. & 39 G. 3. c. 51.) as relates to the removal of offenders to places of temporary confinement, is continued till 25th March 1805, and thence till the end of the next session of parliament.

transportation

transportation to any part of *America*, and such intention of mercy be signified by a principal secretary of state; it shall be lawful for any court having proper authority to allow such offender the benefit of a pardon under the great seal, and to order the like transfer and conveyance to any person (who will contract for the performance of such transportation) and to his assigns, of such offender, as also of any person convicted of receiving or buying stolen goods, knowing them to be stolen, for the term of 14 years, in case such condition of transportation be general, or else for such other term as shall be made part of such condition. 4 G. c. 11. s. 1.

Pardon on
condition of
transportation.

And when his majesty shall be pleased to extend mercy to any offender who hath been convicted of any crime for which he shall by law be excluded from the benefit of clergy, upon condition of transportation to any place beyond the seas, either for term of life, or any number of years, and such intention of mercy shall be signified by one of the principal secretaries of state, it shall be lawful for any court having proper authority to allow such offender the benefit of a conditional pardon, and (except in cases where such offender shall be authorized by his majesty to transport himself) to order the transfer of such offender to any person who shall contract for the due performance of such transportation, and his assigns, for such term of years for which any such offender shall have been ordered to be transported, or for such term of life or years as shall be specified in such condition of transportation as aforesaid. And such person, so contracting, and his assigns, shall have a property in the service of such offender for such terms respectively. 24 G. 3. c. 56. s. 2. s. 1.

Or, instead of waiting till the next assizes, the judge before whom the conviction shall be, may on such intention of mercy signified to him by one of the principal secretaries of state, order the offender to be immediately transported; and such order shall be considered as an order made during the continuance of the assizes at which such offender was condemned. 8 G. 3. c. 15. 24 G. 3. c. 56. s. 2. s. 1.

Every such person, to whom any such court or judge shall order the offender to be transferred or conveyed, before he shall be delivered over to him or his assigns to be transported, shall contract with such person as shall be ordered by the said court or judge, and give sufficient security to the satisfaction of such court or judge, that he will transport or cause to be transported effectually such offender to such of his majesty's plantations in *America* as shall be ordered by the said court or judge (or to such place beyond the seas, 24 G. 3. c. 56. s. 2. s. 2. as shall be appointed by his majesty in council in manner aforesaid), and shall procure such evidence as the nature of the case will admit, of the landing of

Contract for
transportation.

such offender (death and casualties of the sea excepted), and that the said offender shall not be suffered to return from the said place to any part of *Great Britain or Ireland*, by the wilful default of such person so contracting, or his assigns, 4 G. c. 11. f. 3. 8 G. 3. c. 15.

Persons im-
powered to con-
tract.

The court or judge as aforesaid may appoint, if they think fit, two or more justices where the offender shall be convicted, who shall have power to contract with any person for performance of the transportation; and may order the like security, and cause the felons to be delivered by the gaoler to the person contracting or his assigns; which contract and security shall be certified by the justices who shall make and take the same to the next court held with like authority for the place where the felon was convicted, to be filed and kept among the records of such court. 6 G. c. 23. f. 2. 24 G. 3. c. 56. *sess.* 2. f. 2.

Bond for trans-
portation.

And all securities for transportation shall be by bond in the name of the clerk of the peace, who shall (by such suit as the justices in sessions shall direct) prosecute such bond in his own name, and be paid such costs as he shall sustain in such suit for the penalty of such bond, or otherwise howsoever by reason thereof, out of the publick stock by the treasurer; and all money recovered on such bond shall be to the use of the county or place, and be paid to the treasurer, and be part of the public stock. 6 G. c. 23. f. 4.

Conveying to the
port.

The person so contracting, and to whom any felon shall be delivered to be transported, or any person directed by the said justices (impowered to contract as aforesaid), or their assigns, may in such manner as they think fit, carry and secure the felon in and through any county, toward the sea port; and if any person shall rescue such felon, or assist him in escaping, he shall be guilty of felony without benefit of clergy. 6 G. c. 23. f. 5. 24 G. 3. c. 56. *sess.* 2. f. 4.

Charges of
transportation.

All charges in and about making the contracts, taking securities, and conveying felons in order to be transported, shall be borne by the county or place for which the court was held; and the treasurer shall, by order of the justices in sessions, pay the same to such persons as shall be employed for the purposes aforesaid. 6 G. c. 23. f. 3. 24 G. 3. c. 56. *sess.* 2. f. 3.

His majesty may
give a property
in the service of
offenders trans-
ported in his
ships, without
security for their
transportation.

By 43 G. 3. c. 15. whenever his majesty shall give orders for the transportation in any vessels belonging to his majesty of any offenders who already have or hereafter may be sentenced to be transported to any place, or places, within his majesty's dominions beyond the seas, his majesty may, by any order under his royal sign manual, give, if he shall think fit, to any person or persons therein appointed for that purpose a property in the service, of any such offenders, for such

such term or terms of life, or years, or any part thereof respectively, for which such offenders were ordered to be transported, as to his majesty shall seem fit; and on such appointment, they may be delivered to the persons so nominated and appointed, without any security being required or given for their transportation: and every person so appointed, and his or their assigns, shall have the like property in the service of such offenders, as if such person or persons had contracted and given security to transport them in the manner required by the 24 G. 3. c. 56. or any other law in force. *f. 1.*

And his majesty may appoint one fit and able person to be inspector of any place of confinement, either at land or on board any vessel, to which any male offenders shall be removed by virtue of the 24 G. 3. c. 56. which inspector shall personally visit and inspect such places of confinement once, at least, in every quarter of a year, or oftener if occasion shall require, and shall diligently examine into the state thereof, the behaviour and conduct of the respective officers, the treatment and condition of the prisoners, the amount of the several earnings, and the expences attending every such place of confinement; and shall make a faithful report of the same to both houses of parliament at the beginning of every session; and also in matters of extreme or pressing necessity shall make a special report thereof to the justices of his majesty's court of king's bench, who shall immediately take order therein, and regulate or redress the same; and such inspector shall continue in office during his majesty's pleasure, and shall receive such salary out of the consolidated fund of *Great Britain* as his majesty shall appoint, not exceeding 350*l. per annum*, for himself and a clerk, and all other charges and expences whatsoever which shall be incurred by him in discharge of his duty. *f. 2.*

If any person shall assist any felon to attempt his escape from any boat or vessel carrying felons for transportation, he shall (being prosecuted within a year) be guilty of felony, and transported for seven years. 16 G. 2. c. 31. *f. 3, 4.*

Where any person of the age of 15, and under 21, shall be willing to be transported, and to enter into any service in any of his majesty's plantations of *America*, it shall be lawful for any merchant or other to contract with him for such service, not exceeding eight years; provided such person come before the lord mayor or a justice of the peace, if the contract be in *London*, or before two justices, if elsewhere, and before him or them acknowledge such consent, and sign the contract in his or their presence, and with his or their approbation. And then it shall be lawful for such merchant or other to transport such person, and keep him according to the contract; which said contract, and approbation of such magistrate

His majesty to appoint an inspector of the places of confinement to which male offenders shall be removed under 24 Geo. 3. c. 56. &c.

Escaping from on shipboard.

Persons transporting themselves voluntarily.

Contract to be certified to the sessions.

strate or magistrates, with the tenor of such contract, shall be certified by such magistrate or magistrates to the next sessions, to be registered by the clerk of the peace without fee. 4 G. c. 11. s. 5.

Returning from transportation.

If any offender so ordered to be transported shall return into *Great Britain* or *Ireland*, before the end of his term, he shall be liable to be punished as a person attainted of felony without benefit of clergy, and execution shall be awarded against him accordingly. 4 G. 3. c. 11. s. 2. 24 G. 3. c. 56. s. 2. s. 5. 35 G. 3. c. 67. s. 2.

Being at large after order or agreement for transportation.

And by the 16 G. 2. c. 15. If any person or other offender ordered for transportation, or having agreed to transport himself on certain conditions either for life, or any number of years, shall be afterwards at large in any part of *Great Britain*, without some lawful cause before the expiration of the term, he shall be guilty of felony without benefit of clergy. s. 1. 24 G. 3. c. 56. s. 2. s. 5. 35 G. 3. c. 67. s. 2.

And he may be tried at the assizes of the county or liberty where he shall be apprehended, or from whence he was ordered to be transported; and the clerk of assize, and clerk of the peace, where such orders of transportation shall be made, shall, at the request of the prosecutor, or any other in the king's behalf, certify a transcript briefly and in a few words, containing the effect and tenor of every indictment and conviction of such felon, and of the order and contract for transportation, to the judges where he shall be indicted (not taking for the same above 2s. 6d.); which certificate, being produced in court, shall be a sufficient proof that such person hath been convicted and ordered to be transported 6 G. c. 23. s. 6, 7. 16 G. 2. c. 15. s. 2. 24 G. 3. c. 56. s. 2. s. 5. 35 G. 3. c. 67. s. 1.

Reward for apprehending such person.

And whoever shall discover apprehend and prosecute to conviction of felony without benefit of clergy any such offender shall be entitled to a reward of 20l., and shall have the like certificate, and like payments made, without fee, as any persons may be entitled to for the apprehending, prosecuting, and convicting of highwaymen. 16 G. 2. c. 15. s. 3.

Pardon.

But the king may at any time pardon and dispense with the transportation, and allow of the offender's return, he paying to his proprietor such sum as shall be adjudged reasonable by any two justices of the peace within the province wherein such proprietor dwells. And where the offender shall have served his term, such service shall have the effect of a pardon. 4 G. c. 11. s. 2.

Transportation at large to any parts beyond the seas.

Finally, By the 19 G. 3. c. 74. when any person shall be convicted of any grand or petty larceny, or other crime for which he shall be liable to be transported to any of his majesty's

jeſty's colonies or plantations in *America*, the court may, if they think fit, order ſuch perſon to be tranſported to any parts beyond the ſeas, whether the ſame be in *America* or elſewhere. *f. 1.*

And when any ſuch convict ſhall be ordered to be tranſported to any parts beyond the ſeas, or if his majeſty ſhall pardon any ſuch offender convicted of any felony by which he is excluded the benefit of clergy, upon condition of transportation to any parts beyond the ſeas as aforeſaid; in all ſuch caſes, all laws now in force with regard to the transportation of criminals to any of his majeſty's colonies or plantations in *America*, and their puniſhment for being afterwards at large before the expiration of the term for which they were ordered to be tranſported, or had agreed to tranſport themſelves, ſhall be in force as if the ſame had been repeated and eſpecially inſerted in this act (a). 19 G. 3. c. 74. *f. 2.*

And whereas the puniſhment of burning in the hand perſons convicted of felony within the benefit of clergy is often diſregarded and ineffectual, and ſometimes may fix a laſting mark of diſgrace on offenders who might otherwiſe become good ſubjects, it is enacted that when any perſon ſhall be convicted of felony within the benefit of clergy, for which he is liable to be burned in the brawn of the left thumb, the court before whom ſuch perſon ſhall be convicted, or any court holden for the ſame place with like authority, may, inſtead of ſuch burning, impoſe upon ſuch offender ſuch moderate pecuniary fine as ſuch court ſhall think fit; or otherwiſe, inſtead of ſuch burning in any of the caſes aforeſaid, except manſlaughter, may order ſuch offender to be either publicly or privately whipped, but not more than three times, ſuch private whipping to be in the preſence of two perſons at leaſt beſides the offender and officer inſlicting the puniſhment; and in caſe of female offenders, in the preſence of females only; and ſuch fine, whipping, or imprifonment, ſhall have the like effect as if ſuch perſon had been burned in the hand as aforeſaid. *f. 3.*

Fine may be impoſed inſtead of burning in the hand.

And by 24 G. 3. c. 56. *ſeff. 2.* Where any offender hath been or ſhall be ordered to be tranſported to any part beyond

The place of transportation may be altered.

(a) This ſtatute was at firſt temporary, but was continued by the 24 G. 3. *ſeff. 2. c. 56. f. 18.* and further by the 28 G. 3. c. 24. *f. 3.* the 34 G. 3. c. 60. *f. 1.* and by the 39 G. 3. c. 51. (till 25th March 1802); and now by the 42 G. 3. c. 28. *f. 1.* ſo much of it (*i. e.* the 24th ſection) as relates to the transportation of offenders beyond the ſeas is further continued till the 25th March 1805, and thence till the end of the next ſeſſion of parliament. The 3d and 72d ſections which are ſpecified above, are by the 39 G. 3. c. 45. made perpetual. The remaining ſections have been permitted to expire. the

the sea, and such order cannot be conveniently executed with respect to the *place* in such order mentioned, it shall be lawful for the court of king's bench, or the court before which such person hath been convicted, or any court holden for the same county having like authority, or (in the vacation time, and out of term) for any two judges of the degree of the coif, to order such offender to be transported to any *other place* beyond the seas, which shall be appointed by his majesty for the transportation of offenders, in like manner, and for the same term, and shall have the same effect as if such offender had been transported under the original order. *f. 13.*

Offenders sentenced to transportation may be imprisoned and kept to hard labour.

And it shall be lawful for the court by whom any offender shall be sentenced to transportation for crimes committed after 1st July 1791, or where the royal mercy shall be extended on condition of transportation; or for the judge of the court before whom such offender shall have been convicted; or justices at their sessions; to order and adjudge that such person shall be imprisoned and kept to hard labour in the common gaol until he be transported, or otherwise removed, according to law; or until he, by the expiration of the term of such sentence of transportation, or otherwise, shall be entitled to his liberty. *31 G. 3. c. 46. f. 7.*

Time of imprisonment to be deemed part of the term of transportation.

Provided that the time during which such offender shall so continue confined shall be reckoned as a part of the term of his transportation. *Ib.*

Penalties inflicted by 24 G. 3. c. 56. *sess. 2.* are to be sued for within six months in the county where the fact was committed. *f. 16.*

Account to be delivered to the court of king's bench.

Each of the governors and superintendents of the several places of confinement shall keep a book, and from thence from time to time make returns, specifying the names of all persons committed to their custody, the offences of which they shall have been guilty, the court before whom each person was convicted, the sentence of the court, the age, bodily estate, and behaviour of every convict while in custody, and also the names of all who shall have died in custody, or shall have escaped from such place of confinement, or shall have been discharged by order of a secretary of state or otherwise; which returns shall be made the first day of every term to the court of king's bench, and verified on the oath of the person making the same, such oath to be made before the said court, or any commissioner authorized to take affidavits in the same. *24 G. 3. c. 56. sess. 2. f. 11.*

[N. B. By 34 G. 3. c. 84. some further regulations are made respecting penitentiary houses, but as the same do not relate to the office of a justice of the peace, it is thought unnecessary to insert them here.]

Traverse.

TRAVERSE took its name from the French *de traverse*, Traverse, whence. which is no other than *de transverso*, in Latin, signifying *on the other side*; because as the indictment on the one side chargeth the party, so he on the other side cometh in to discharge himself. *Lamb. 540.*

The word traverse is only applied to an issue taken upon an indictment for a misdemeanor; and it should rather seem applicable to the fact of putting off the trial till a following sessions or assizes, than to the joining of issue; and therefore perhaps the derivation is from the meaning of the words *transverso*, which in barbarous Latin is to go over, *i. e.* to go from one sessions, &c. to another, and thus it is that the officer of the court asks the party whether he be ready to try then, or will traverse over to the next sessions, &c.; but the issue is joined immediately, by pleading not guilty.

To traverse an indictment then, is to take issue upon the chief matter thereof; which is the same as if one shall say, Traverse, what. *to make contradiction, or to deny the point of the indictment.*

As in a presentment against a person for a highway overflowed with water, for default of scouring a ditch which he and they whose estate he hath in certain lands there have used to scour and cleanse, such person may traverse either the matter, to wit, that there is no highway there, or that the ditch is sufficiently scoured; or otherwise he may traverse the cause, to wit, that he hath not that land, or that he and they whose estate he hath have not used to scour the ditch. *Lamb. 541.*

And so far as in the record of one traverse, there is at once discovered the style of the sessions, the indictment, the process to answer, the traverse itself, the verdict and judgment thereupon, the process of execution, the yielding of the parties, and the assessment of their fines, so that it alone may serve instead of all, it is judged requisite to insert the same as follows; Form of traverse.

Somerſet. **H**ERETOFORE, *to wit, at the ſeſſions of the peace at Bridgewater in the county aforeſaid, on the Tueſday next before the feaſt of St. Matthew the apoſtle, in the ——— year of the reign of ——— by the grace of God of the united kingdom of Great Britain and Ireland, king, defender of the faith, before J. P. and K. P. eſquires, and other their associates, juſtices of our ſaid lord the king, assigned to keep the peace in the county aforeſaid; as alſo to hear and determine divers felonies, treſpaſſes, and other miſdemors, in the ſame county committed, by the oath of twelve jurors it is preſented that John Long, of ——— R. M. of ——— and T. L. of ——— with divers others unknown, evil doers and diſturbors of the* (Style of the ſeſſions.)
(The indictment.)
the

(Process to answer.)

(Traverse.)

(Jury.)

(Verdict.)

(Judgment.)

the peace of our said lord the king, in a warlike manner arrayed, joined and assembled, on the ——— day of ——— in the night of the same day, in the year aforesaid, with force and arms, to wit, with swords, staves, clubs, guns, and other arms, as well offensive as defensive, at ——— the close of one W. Willet, (called B.) unlawfully, riotously, routously broke and entered, and eight waggon loads of hay, to the value of ——— then and there being, of the goods and chattels of the said W. W. then and there unjustly and unlawfully took and carried away, against the peace of our said lord the king, and against the form of the statute in that case made and provided; whereupon it was commanded to the sheriff that he should not omit for any liberty within his bailiwick, but cause them to come to answer. And afterwards, to wit, on the Tuesday aforesaid, next before the feast of St. Matthew the apostle, in the year aforesaid, before the aforesaid justices, came the aforesaid J. L. R. M. and T. L. in their proper persons, and having had the hearing of the indictment aforesaid, severally say that they are thereof not guilty, and of this they put themselves upon the country; and Adam Martin, who for our lord the king in this behalf prosecutes, in like manner doth the same. Therefore let there come thereupon a jury before the justices of our said lord the king, assigned to keep the peace in the county aforesaid, and also to hear and determine, &c. at the sessions of the peace at Welles, &c. on the Tuesday next after the Epiphany of our Lord then next to be holden, and who are not of kin to the said J. L. R. M. and T. L. nor to any of them, to recognize, upon their oath, whether the said J. L. R. M. and T. L., are guilty of the crime charged in the said indictment; because as well the said Adam Martin, who prosecutes for the said lord the king in this behalf, as the said J. L. R. M. and T. L., have put themselves upon the said jury. The same day is given as well to the aforesaid A. M. who prosecutes, &c. as to the aforesaid J. L. R. M. and T. L. &c. To which sessions of the peace holden at W. aforesaid, in the county aforesaid, on the aforesaid day, &c. before ——— and their associates justices of our said lord the king assigned to keep the peace in the county aforesaid, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the same county committed, came as well the aforesaid A. M. who prosecutes, &c. as the aforesaid J. L. R. M. and T. L. in their proper persons. And the jurors aforesaid, by the sheriff of the county aforesaid for this impannelled, and demanded, to wit, A. B. C. D. &c. likewise did come, who to say the truth concerning the premises being tried and sworn say upon their oath that the aforesaid J. L. R. M. and T. L. are guilty, and every of them is guilty of the trespass, contempt, and riot aforesaid, in the indictment aforesaid above specified, in manner and form as against them is above supposed. Therefore it is considered by the

court that the aforesaid J. L. R. M. and T. L. to be taken to satisfy our lord the king of their fines, by occasion of the trespasss, contempt, and riot aforesaid. Which J. L. R. M. and T. L. then and there present in court prayed that they to a fine with our said lord the king, by the occasion aforesaid, may be admitted; and therefore they put themselves severally upon the mercy of our lord the king. And the fine of the same J. L. by the justices aforesaid is assessed at 3l. 6s. 8d. and the fine of the same R. M. is assessed at 20s. and the fine of the same T. L. is assessed at 5l. of good and lawful money of Great Britain, to the use and behoof of our said lord the king. Lamb. 543.

(Process of execution.)

(Fine assessed.)

Every defendant indicted for a misdemeanor should give full eight days notice of trial to a prosecutor, before the assizes, if the trial is to be there; if at the sessions, it is usual to give two or three days notice. Cr. Circ. 20. 48.

Notice of trial.

Treason.

[3 Ed. 1. c. 15.—25 Ed. 3. st. 5. c. 2.—1 Mar. Sefs. 1. c. 1.—31 C. 2. c. 2.—7 W. c. 8.—13 W. c. 3.—6 An. c. 7. 7 Ann. c. 21. f. 11.—17 G. 2. c. 39.—20 G. 2. c. 30.—30 G. 3. c. 48.]

TREASON according to Lord Coke, is derived from *trahir*, to betray; and *trahison*, by contraction, *treason*, is the betraying itself. 3 Inst. 4.

Meaning of the word treason.

Treason, generally speaking, is not intended, not of petit treason, but of high treason only. 1 H. H. 316.

Notwithstanding that treason and misprision of treason are not within the letter of the commission of the peace, yet inasmuch as they are against the peace of the king and of the realm, any justice of the peace may, either upon his own knowledge, or the complaint of others, cause any person to be apprehended for any such offence. And such justice may take the examination of the person so apprehended, and the information of all those who can give any material evidence against him, and put the same in writing, and also bind over such who are able to give any such evidence to the king's bench, or gaol delivery, and certify his proceedings to such court. 2 Haw. c. 8. f. 34. Hal. Pl. 168. 1 H. H. 372.

Power of justices of the peace therein.

And having committed the offender (for he is by no means bailable by justices of the peace, 3 Ed. 1. c. 15. 2 Haw. c. 15. f. 44.) it may be advisable for him to send an account immediately of all the particulars to a secretary of state.

Bail.

By the statute of the 25 Ed. 3. st. 5. c. 2. which L. Hale calls a *sacred* act; and L. Coke an *excellent* act, and the king who made it a *blessed* king, and the parliament a *blessed* parliament;

Treason by the 25 Ed. 3.

liament ; All treasons which had been uncertain before were settled. Which act, by the 1 Mar. sess. 1. c. 1. is reinforced, and again made the only standard of treason ; and all statutes, between the said statutes of the 25 Ed. 3. and 1 Mar. which made any offences high or petit treason, or misprision of treason, are abrogated ; so that no offence is at this day to be esteemed high treason, unless it be either declared to be such by the said statute of the 25 Ed. 3. or made such by some statute since the 1 Mar.

And therefore I shall first consider such offences as are high treason within the said statute of the 25 Ed. 3., and then such as are made treason by statutes subsequent to the said statute of the 1 Mar.

The words of the statute of the 25 Ed. 3. as to this matter, are as follow ;

Whereas divers opinions have been before this time in what case treason shall be said, and in what not ; [that is, what shall or shall not be said to be treason :] the king, at the request of the lords and commons, hath made a declaration in the manner as hereafter followeth ; that is to say, when a man doth compass or imagine the death of our lord the king, or of our lady his queen, or of their eldest son and heir ; or if a man do violate the king's companion (that is, his wife, 3 Inst. 9.) or the king's eldest daughter unmarried, or the wife of the king's eldest son and heir ; or if a man do levy war against our lord the king in his realm, or be adherent to the king's enemies in his realm, giving to them aid and comfort in the realm, or elsewhere ; and thereof be probably (proveablement, proveably) attainted of open deed, by the people of their condition. And if a man counterfeit the king's great or privy seal, or his money ; and if a man bring false money into the realm, counterfeit to the money of England, knowing the money to be false ; and if a man slay the chancellor, treasurer, or the king's justices of the one bench or the other, justices in eyre, or justices of assize, and all other justices assigned to hear and determine, being in their places, doing their offices. And it is to be understood, that in the cases above rehearsed, that ought to be judged treason which extends to our lord the king, and his royal majesty.

And by the statute of the 1 Mar. sess. 1. c. 1. (which lord Hale calls another excellent law) *No act deed or offence being by act of parliament made treason, by words, writing, ciphering, deeds, or otherwise whatsoever, shall be adjudged to be treason, but only such as be declared by the said statute of the 25 Ed. 3. And this (he says) at one blow laid flat all the numerous treasons at any time enacted since the 25 Ed. 3. 1 H.H. 308,*

Of open deed] L. Coke (3 Inst. 14. 140.) seems to be of opinion, upon the said act of the 25 Ed. 3., that bare words are not a sufficient overt act, or open deed ; whereby to convict

vict a person of treason; but that they are misprision of treason only. So also *L. Hale* (1 *H. H.* 111. 118. and elsewhere throughout) seemeth to think that words, unless put into writing, are not regularly an overt act. But *Mr. Hawkins* (1 *Haw. c.* 17, *f.* 39) argues the contrary, and amongst other reasons for his opinion, he observes that to charge a man with speaking treason is unquestionably actionable, which could not be, if no words could amount to treason: also, that as in case of felony he who by command or persuasion induceth another to commit felony is an accessory in felony, so he who does the same in treason is a principal traitor (there being no accessories in treason, but all being principals); and yet such person doth not act but by words. Nevertheless, at this day, it seems clearly to be agreed that by the common law and the statute of *Ed. 3.* words spoken amount only to a high misdemeanor; and no treason. 4 *Bl. Com.* 80.

Offences made treason since the 1 *Mar.* are as follows:

(1) with regard to the *pretender*—By the 6 *An. c.* 7. If any person shall by writing or printing affirm that the pretender hath any right to the crown, or any other person otherwise than according to act of parliament, he shall be guilty of high treason. And if any person shall by preaching, teaching, or advised speaking, affirm the same, he shall incur a *præmunire*. Treasons since the 1 *Mar.*

But no person shall be prosecuted for words, unless oath be made thereof before a justice in three days, and the prosecution be within three months; and the conviction on the oath of two witnesses.

And by the 13 *W. c.* 3. If any person shall hold any correspondence with the pretender, or any person employed by him, or shall remit any money to his use, he shall be guilty of high treason. And by the 17 *G. 2. c.* 39, this is extended to the pretender's sons.

(2) Offences in relation to the coin are made treason by many statutes; which are treated of in title *Coin*.

(3) Also there are many offences made treason with regard to the popish usurped jurisdiction; which are treated of under title *Popery*.

In high treason, as hath been said before, there are no accessories, but all are principals; and therefore whatsoever act or consent will make a man accessory to a felony before the act done, the same will make him a principal in case of high treason. 3 *Inst.* 9. 21. Accessories in high treason.

By the 7 *W. c.* 3. No person shall be prosecuted for high treason but within three years after the offence committed; except in the case of designing to assassinate the king's person. Prosecution to be in three years.

Trial to be the
next term.

And by the 31 C. 2. c. 2. Persons committed for high treason shall be indicted the next term, or next assize; otherwise they shall be let to bail, unless it appear to the court, upon oath, that the witnesses for the king could not be produced in that time; and in such case they shall be indicted the second term or assize, or else discharged.

Copy of the in-
dictment.

Persons indicted for high treason, whereby corruption of blood shall be made, or for misprision of such treason (except for counterfeiting the coin, the great seal, privy seal, privy signet or sign manual), shall have a copy of the indictment (but not the names of the witnesses) delivered to them five days before the trial. 7 W. c. 3.

Copy of the
panel.

And they shall have copies of the panel of the jurors delivered to them, two days before trial. 7 W. c. 3.

Process for wit-
nesses.

And shall have process of court to compel their witnesses to appear. 7 W. c. 3.

List of the wit-
nesses.

And moreover, after the death of the person pretending to be king of England by the name of James the third, when a person is indicted for high treason, or misprision of treason, both a copy of the indictment, and lists of the jurors, and also of the witnesses, shall be delivered to the party indicted, ten days before the trial. 7 An. c. 21. f. 11.

But this shall not extend to any indictment of high treason for counterfeiting the coin, the great seal, privy signet, or the sign manual. 6 G. 3. c. 53. f. 3.

Counsel.

And such person shall have two such counsel as they shall desire assigned them by the court, who shall have access to them at reasonable times. 7 W. c. 3.

Likewise persons impeached by the house of commons of high treason whereby corruption of blood shall be made, or for misprision thereof, shall be admitted to make their full defence by two counsel, who shall be assigned for that purpose, in like manner as upon indictments and other prosecutions. 20 G. 2. c. 30.

Witnesses sworn.

They shall be allowed to make their defence by witnesses on oath. 7 W. c. 3.

Two witnesses.

And they shall not be attainted but on the oath of two witnesses, either both of them to the same overt act, or one of them to one and the other of them to another overt act of the same treason; unless they shall confess or stand mute, or refuse to plead, or challenge peremptorily above 35 of the jury. 7 W. c. 3.

Judgment.

The judgment for high treason (not relating to the coin) is, that he shall be carried back to the place from whence he came, and from thence to be drawn (that is, not to be carried, or walk, though usually a sledge or hurdle is allowed, to preserve the offender from the torment of being dragged on the ground or pavement,) to the place of execution, and be

be there hanged by the neck, and cut down alive, and that his entrails be taken out and burnt before his face, and his head cut off, and his body divided into four quarters, and his head and quarters disposed of at the king's pleasure. 2 *Haw. c. 48. f. 3.*

The ancient judgment of a woman for high treason was to be drawn and burnt. 3 *Inst. 211.*

But by 30 G. 3. c. 48. women are not to be burned, but hanged. *f. 1.*

In the said judgment is implied forfeiture of lands and goods to the king, loss of dower, and corruption of blood. *3 Inst. 211.*

By 36 G. 3. c. 7. If any person, after the 18th December 1795, during the natural life of his majesty, and until the end of the next session of parliament after a demise of the crown, shall, within the realm or without, compass, imagine, invent, devise, or intend death or destruction, or any bodily harm tending to death or destruction, maim or wounding, imprisonment or restraint of the person of the king, his heirs and successors, or to deprive or depose him or them from the style, honour, or kingly name of the imperial crown of this realm, or of any other of his majesty's dominions; or to levy war against his majesty, his heirs and successors, within this realm, in order by force or constraint to compel him or them to change his or their measures or counsels; or in order to put any force or constraint upon or to intimidate or overawe both or either house of parliament; or to move or stir any foreigner or stranger with force to invade this realm, or any other his majesty's dominions under his obedience; and such compassings, imaginations, inventions, devices, or intentions, or any of them, shall express, utter, or declare, by publishing any printing or writing, or by any overt act or deed, being convicted thereof upon the oaths of two witnesses, upon trial, or otherwise convicted or attainted by due course of law, such person shall be deemed a traitor, and shall suffer and forfeit as in cases of high treason. *f. 1.*

Treason by 36 G. 3. c. 7.

Petit treason.

Moreover, there is another manner of treason when a servant slayeth his master, or wife her husband; or when a man secular or religious slayeth his prelate to whom he oweth faith and obedience. 25 Ed. 3. st. 5. c. 2.

Petit treason, what.

High treason is against the king, petit treason against the subjects. 3 *Inst. 20.*

No person shall be convicted of petit treason but on the oath of two witnesses, or confession. 1 Ed. 6. c. 12. *f. 22.*

The judgment against a man for petit treason is, that he shall be drawn to the place of execution, and there hanged by the neck till he be dead. 2 *Haw. c. 49. f. 5.*

Judgment.

And by 30 G. 3. c. 48. The judgment against a woman shall be the same as against persons convicted of wilful murder, as specified in 25 G. 2. c. 37.

Forfeiture.

The consequence of attainder is, forfeiture of lands (to the lord of the fee), and of goods; loss of dower; and corruption of blood. 2 Haw. c. 46. s. 1.

Accessory.

Although there can be no accessaries in high treason, yet in petit treason there may be accessaries both before and after. 3 Inst. 21.

And accessaries before the fact are ousted of clergy by several statutes: but accessaries after the fact have their clergy in all cases of petit treason; for no statute takes it from them. 2 H. H. 342.

Misprision of treason.

Misprision, what.

Misprision cometh of the *French* word *mepris*, which properly signifieth neglect or contempt; and misprision of treason, in legal understanding, signifieth, when one knowing of any treason, though no party or consenter to it, yet conceals it, and doth not reveal it in convenient time. 3 Inst. 36. 1 H. H. 371.

Judgment.

The judgment of misprision of treason is, to be imprisoned during life, to forfeit all his goods for ever, and the profits of his lands during life. 3 Inst. 36.

Caution.

Every man therefore that knoweth a treason ought with all speed to reveal it to the king, his privy council or other magistrate. H. Pl. 127.

Misprision of petit treason.

But it seemeth that misprision of petit treason is not subject to the judgment of misprision of high treason, but only is punishable by fine and imprisonment, as in the case of misprision of felony. 1 H. H. 375.

[Were we to enter at large into this subject, it would greatly swell the volume, without conveying any more information particularly useful to those whom this work is intended to assist. For a very satisfactory treatise on this heinous offence, we refer to Mr. East's Pleas of the Crown.]

Treasure found.

[4 Ed. 1. st. 2.]

Treasure trove, what.

TREASURE trove, or treasure found, is where any money or coin, gold, silver, plate, or bullion, is found hidden in the earth, or other private place, the owner thereof being unknown; in which case, the treasure belongs to the king (or to some other by the king's grant or prescription :) but if

If he that hid it be known, or afterwards found out, the owner and not the king is entitled to it. 1 *Blackst.* 295.

Also, if it be found in the sea, or upon the earth, it doth not belong to the king, but to the finder, if no owner appears. So that it seems it is the hiding, not the abandoning of it, that gives the king a property. *Ib.*

This difference arises from the different intentions, which the law implies in the owner. A man that hides his treasure in a secret place evidently doth not mean to relinquish his property; but reserves a right of claiming it again, when he sees occasion; and if he dies, and the secret also dies with him, the law gives it to the king, in part of his royal revenue. But a man that scatters his treasure into the sea, or upon the public surface of the earth, is construed to have absolutely abandoned his property, and returned it into the common stock, without any intention of reclaiming it; and therefore it belongs, as in a state of nature, to the first occupant or finder unless the owner appear and assert his right, which then proves that the loss was by accident, and not with an intent to renounce his property. *Ib.*

Larceny cannot be committed of such things whereof no man hath any determinate property, though the things themselves are capable of property, as of treasure trove, or wreck, till seized; though he that hath them in point of franchise, may have a special action against him that takes them. 1 *H. H.* 510.

Taking treasure trove, not felony.

The punishment for concealment of treasure trove is by fine and imprisonment. 3 *Inst.* 133.

But finable.

And it belongeth to the coroner to inquire thereof. *Ib.*

Concerning which it is enacted by the 4 *Ed.* 1. *st.* 2. that a coroner being certified by the king's bailiffs, or other honest men of the country, shall go to the places where treasure is said to be found. And it is further enacted in the same statute that the coroner ought to enquire of treasure that is found, who were the finders, and likewise who is suspected thereof, and that may be well perceived, where one liveth riotously, haunting taverns, and hath done so of long time; hereupon he may be attached for this suspicion by 4, or 6, or more pledges, if he may be found.

The coroner may inquire thereof.

Also it seems to be agreed, that all seizures of treasure trove, belonging to the king, may be inquired of in the sheriff's torn. But it seems questionable, whether a prescription in a court leet to inquire of such seizure belonging to the lord of it, being a subject, be good or not, since it is against the general rule of the law for the leet to take cognizance of trespasses done to the private damage of the lord, because that would make him his own judge. 2 *Haw.* 67.

Also the sheriff in his torn.

Treasurer.

[11 G. 2. c. 20.—12 G. 2. c. 29. f. 6. 7. 8. 9. 12.]

Treasurer how
chosen.

BY the 12 G. 2. c. 29. The treasurers of counties shall be persons resident in the county or division, and shall be appointed by the justices at their general or quarter sessions; first giving sufficient security to be accountable for the money which shall be paid to them in pursuance of this act (for levying of county rates), and to pay such sums as shall be ordered by the justices in sessions, and for the due and faithful execution of the trust reposed in them. *f. 6.*

Continuance in
his office; and
his salary.

They may continue the treasurer from time to time in his office, and remove him at their pleasure, and appoint another in his place; and may allow him a salary not exceeding 20*l.* a year, to be paid out of the county rates. *f. 12.*

His election to
be certified into
the king's
bench.

And that the treasurers may be the better amenable to the court of king's bench, with regard to the payment of the money for relief of the prisoners of the *King's Bench* and *Marshalsea* prisons, every person who shall be elected treasurer of any county shall in 30 days after his election transmit his name and place of abode to the clerk of the crown in the court of king's bench, to be by him entered or registered, for which entry no fee shall be taken: And if such treasurer shall neglect or refuse so to do, then, upon the report of the said clerk of the crown, the said court may make a rule upon him, requiring his performance; which shall be enforced as other rules of the said court, at the charge of such treasurer. 11 G. 2. c. 20.

His accounts

And the treasurer shall keep books of entries of the several sums by him received and paid; and shall deliver in a true and exact account upon oath, if required, of his receipts and disbursements, distinguishing the particular uses to which the several sums have been applied, to the justices at every general or quarter sessions, and shall lay before them the proper vouchers for the same; which accounts and vouchers, after having been passed by the said justices, shall be deposited with the clerk of the peace, to be kept amongst the records, to be inspected by any of the justices without fee. 12 G. 2. c. 29. *f. 7, 8.*

And discharge.

And the discharge of the justices, by their order at their general or quarter sessions, shall be a sufficient release and discharge to such treasurer. *f. 9.*

Trees. See *Wood*.

Trespass. See *Justice of the peace*.

Trial. See *Jury, Sessions*.

Turnips,

Turnips.

[13 G. 3. c. 32.—42 G. 3. c. 67.]

By the 13 G. 3. c. 32. If any person shall steal and take away, or maliciously pull up or destroy, any turnips, potatoes, cabbages, parsnips, pease, or carrots, growing or being in any garden, lands, or grounds, open or inclosed; he shall, on conviction before one justice, by confession or oath of one witness, forfeit such sum, not exceeding 10s. over and above the value of the goods stolen, as to such justice shall seem meet; to be distributed between the owner of the goods and the overseer for the use of the poor, in such proportion as the justice shall think fit; or he may assign the whole to such owner or overseer, according to his discretion. And in default of payment, the justice shall commit him to the house of correction, there to be kept to hard labour, not exceeding one month, unless the penalty shall be sooner paid.

And in all informations and other proceedings for any of the said offences, the evidence of the owner, and of the inhabitants of the parish or place shall be allowed; provided, that where the conviction shall be on the oath of the owner, the whole of the penalty shall be paid to the overseer, for the use of the poor.

And the conviction shall be drawn up to the following effect: *Be it remembered, that on the ——— day of ——— in the year of our Lord ——— A. O. is duly convicted before me J. P. esquire, one of his majesty's justices of the peace for the county of ——— [specifying the offence, and the time and place when and where the same was committed, as the case shall be]. Given under my hand and seal the day and year aforesaid.*

No person shall be prosecuted for any such offence, unless the prosecution be begun within 20 days after the offence committed. *s. 5.*

The provisions of this act have been extended by statute 42 G. 3. c. 67. in three particulars only; in all other respects, the provisions of the 13 G. 3. c. 32. remain unaltered.

1st. In the description of the offence, "If any person shall steal, take away, wilfully or maliciously pull up, injure, or destroy any turnips, potatoes, cabbages, parsnips, beans, pease, or carrots, growing or being in any garden, orchard, lands and grounds open or inclosed," &c.

2dly. In the penalty, "any sum not exceeding 20s."

3dly. In the term of imprisonment, "any time not exceeding two months."

Turnpikes. See Highways.

Vagrants.

THIS title consisteth chiefly of the statute of the 17 G. 2. c. 5. commonly called the vagrant act: but in the progress thereof, the other statutes relating to vagrants are inserted in the places where they properly fall in.

Se^ct. I. *Idle and disorderly persons.*

[7 J. c. 4.—17 G. 2. c. 5. f. 1.—32 G. 3. c. 45. f. 8.]

II. *Rogues and vagabonds.*

[22 H. 8. c. 10.—1 & 2 P. & M. c. 4.—5 El. c. 20.—17 G. 2. c. 5. f. 2.—23 G. 3. c. 51.—c. 47.—c. 88.—32 G. 3. c. 45. f. 7.—43 G. 3. c. 61.—39 & 40 G. 3. c. 50. f. 1.—c. 87. f. 12.]

III. *Incorrigible rogues.*

[13 G. c. 23. f. 8.—17 G. 2. c. 5. f. 4.—6 G. 3. c. 48.]

IV. *Apprehending.*

[17 G. 2. c. 5. f. 5.—32 G. 3. c. 45. f. 2.]

V. *Privy search.*

[17 G. 2. c. 5. f. 6.—25 G. 2. c. 36. f. 12.]

VI. *Examination.*

[17 G. 2. c. 5. f. 7.]

VII. *Whipping or imprisonment.*

[22 H. 8. c. 12.—39 El. c. 4.—17 G. 2. c. 5. f. 7. 27 G. 3. c. 11.—32 G. 3. c. 45. f. 1. 3.]

VIII. *Further punishment.*

[13 & 14 C. 2. c. 12.—17 G. 2. c. 5. f. 9.]

IX. *Conveying.*

[17 G. 2. c. 5. f. 7. 8. 10. 12. 18.—26 G. 2. c. 34. f. 2.—32 G. 3. c. 45. f. 1. 5. 6. 17.—35 G. 3. c. 101. f. 2.—49 G. 3. c. 124. f. 13.]

X. *What to be done with, at the place to which they are sent.*

[17 G. 2. c. 5. f. 11. 19.]

XI. *Scottish vagrants.*

[f. 14.]

XII. *Irish vagrants.*

[f. 14. 15.]

XIII. *Lunatic vagrants.*

[f. 20. 21.]

XIV. *Penalty of lodging vagrants.*

[f. 23.]

XV. *Children born in vagrancy.*

[f. 25.]

XVI. *General*

XVI. *General penalty, for hindering the execution of the vagrant act.*

[f. 17. 22.]

XVII. *Charges of maintaining and conveying vagrants.*

[f. 33.]

XVIII. *Appeal.*

[f. 26.]

XIX. *Treble costs.*

[f. 34.]

XX. *Exception of special franchises.*

[f. 27.]

I. *Idle and disorderly persons.*

By the 7 J. c. 4. Idle and disorderly persons shall be sent to the house of correction; and by the 17 G. 2. c. 5. idle and disorderly persons are thus described.

(1) All persons who threaten to run away, and leave their wives or children to the parish. Persons threatening to run away. Returning to the parish removed from.

(2) All persons who shall unlawfully return to the parish or place from whence they have been legally removed by order of two justices, without bringing a certificate from the parish or place whereunto they belong. Refusing to work.

(3) All persons, who, not having wherewith to maintain themselves, live idle without employment, and refuse to work for the usual and common wages given to other labourers in the like work, in the parishes or places where they are. Begging.

(4) All persons going about from door to door, or placing themselves in streets, highways, or passages, to beg or gather alms in the parishes or places where they dwell. Neglecting to work and to provide for their families.

(5) And by 32 G. 3. c. 45. f. 8. All persons who by their wilful default and neglect permit their wives and children to become chargeable to their parishes or places; and it shall be made appear to two justices that such persons do not use proper means to get employment, or being able to work do neglect to work, or spend their money in alehouses or places of bad repute, or in any other improper manner, and do not employ a proper proportion of the money earned by them towards the maintenance of their wives and families, by which they or any of them become chargeable to such parish or place.—And these shall be deemed idle and disorderly persons. And it shall be lawful for one justice to commit such offenders, (being thereof convicted before him, by his own view, confession, or oath of one witness,) to the house of correction, to be kept to hard labour, not exceeding one month. 17 G. 2. c. 5. f. 1.

The

Commitment
must be for a li-
mited time.

The commitment under this section must be for a definite time, to be specified in the warrant of commitment; and that time must not exceed one month, or 28 days; for a month always means a lunar month, unless otherwise expressed. 2 *Bl. Com.* 141. *Lacon v. Hooper*, 6 *T. R.* 225. *R. v. Joseph Hall*, 3 *Bur.* 1636. *Baldwin & Wife v. Blackmore*, esq. 1 *Bur.* 596. (See tit. *POOR*, sect. xix. (3.) vol. 4.)

Warrant must
shew the justice's
authority.

And such warrant ought to shew that the person convicted had authority to convict; for the omission thereof is a gross defect, and the defendants were therefore discharged. *R. v. York* and another. 5 *Bur.* 2684.

It is a commit-
ment in execu-
tion.

The commitment under this section must necessarily be a commitment in execution, that is to say, for punishment, after the magistrate has heard and adjudged the charge. And such commitment must be preceded by a conviction; as, besides that the act uses the words, "being thereof convicted," it is universally the rule, that wherever there is a commitment in execution, there must be a previous conviction. A commitment in execution by a magistrate must also state, that the party has been "convicted;" setting forth, that he was "charged" with the offence, is insufficient. *R. v. Rhodes*, 4 *T.* 230. *R. v. Cooper*, 6 *T. R.* 509. (See *post*, VII.)

Reward for ap-
prehending.

And any person may apprehend, and carry before a justice, any such persons going about from door to door, or placing themselves in streets, highways, or passages, to beg alms in the parishes or places where they dwell; and if they shall resist, or escape from the person apprehending them, they shall be punished as rogues and vagabonds. And the said justice, by warrant under his hand and seal, may order (A) any overseer, where such offender shall be apprehended, to pay 5s. to any person in such parish or place so apprehending them, for every offender so apprehended; to be allowed in his account, on producing the justice's order, and the person's receipt to whom it was paid: and if the overseer shall neglect or refuse to pay the same, the said justice, on oath thereof, may by his warrant order the same to be levied by distress and sale of his goods; and, in such case, he shall not be allowed the same in his accounts. 17 *G. 2. c. 5. s. 1.*

Note; This is another, and a quite different reward, from that which is given hereafter, for apprehending rogues and vagabonds; the latter being 10s. and this but 5s.; the latter paid by the county, but this paid by the parish, as a punishment for suffering their poor to beg, although within their own parish; for if they beg out of the parish, they incur a further degree of guilt, becoming thereby rogues and vagabonds.

II. Rogues and vagabonds.

An infant, under the age of seven years, shall not be said to be a rogue and vagabond; but shall be removed to its place of settlement, as other poor persons not vagrants. *Blackerby*, 276.

But persons who shall be deemed rogues and vagabonds, are by the 17 G. 2. c. 5. §. 2. these that follow;

(1) All persons going about as patent gatherers, or gatherers of alms, under pretences of loss by fire, or other casualty. Gathering alms under pretended losses.

(2) Persons going about as collector for prisons, gaols, or hospitals. Collectors for prisons.

(3) Fencers. Fencers.

(4) Bearwards. Bearwards.

(5) Common players of interludes, and all persons who shall for hire, gain, or reward, act, represent, or perform, or cause to be acted represented or performed any interlude, tragedy, comedy, opera, play, farce, or other entertainments of the stage, or any part therein, not being authorized by law. Common players.

(6) Minstrels. Minstrels.

But this shall not prejudice the heirs or assigns of *John Dutton of Dutton*, late of the county of *Chester*, esquire, their heirs or assigns, concerning the liberty, privilege, or inheritance, which they their heirs or assigns now lawfully use or ought to use within the county of *Chester*, by reason of any ancient charters of any kings of this land, or by reason of any prescription.—The cause of which exception being so well known, it is thought unnecessary to take further notice of it here.

(7) Jugglers. Jugglers.

(8) All persons pretending to be gypsies, or wandering in the habit or form of *Egyptians*. Gypsies.

These are a strange kind of commonwealth among themselves, of wandering impostors and jugglers, who made their first appearance in *Germany* about the beginning of the sixteenth century, and have since spread themselves all over *Europe* and *Asia*. They were originally called *Zinganees* by the *Turks*, from their captain *Zinganeus*, who, when sultan *Selim* conquered *Egypt* about the year 1517, refused to submit to the *Turkish* yoke, and retired into the deserts, where they lived by rapine and plunder, and frequently came down into the plains of *Egypt*, committing great outrages in the towns upon the *Nile*, under the dominion of the *Turks*. But being at length subdued and banished from *Egypt*, they dispersed themselves in small parties into every country in the known world; and, as they were natives of *Egypt*, a coun-

try where the occult sciences or black art, as it was called, was supposed to have arrived to great perfection, and which, in that credulous age, was in great vogue with persons of all religions and persuasions, they found the people, wherever they came, very easily imposed on. *Mod. Univ. Hist. Vol. xliii. p. 271.*

In the compass of a very few years, they gained such a number of idle proselytes, who imitated their language and complexion, and betook themselves to the same arts of chiromancy, begging, and pilfering, that they became troublesome and even formidable to most of the states of *Europe*. Hence they were expelled from *France* in the year 1560, and from *Spain* in 1591. And the government in *England* took the alarm much earlier; for in 1530, they are described by the statute of the 22 *H. 8. c. 10.* as "outlandish people, calling themselves *Egyptians*, using no craft or feat of merchandize, who have come into this realm and gone from shire to shire and place to place in great company, and used great subtil and crafty means to deceive the people; bearing them in hand, that they by palmestry could tell men and women fortunes; and so, many times by craft and subtilty have deceived the people of their money, and also have committed many heinous felonies and robberies." Wherefore they are directed to avoid the realm, and not to return, under pain of imprisonment and forfeiture of their goods and chattels; and, upon their trials for any felony which they may have committed, they shall not be entitled to a jury *de medietate lingue*. And afterwards it is enacted by the 1 & 2 *P. & M. c. 4.* and 5 *El. c. 20.* that if any such persons shall be imported into this kingdom, the importer shall forfeit 40*l.* And if the *Egyptians* themselves remain one month in this kingdom; or if any person being 14 years old, whether a natural born subject or stranger, which hath been seen or found in the fellowship of such *Egyptians*, or which hath disguised him or herself like them, shall remain in the same one month at one or several times; it is felony without benefit of clergy. And Sir *Matthew Hale* informs us, that at one *Suffolk* assizes no less than thirteen gypsies were executed upon these statutes, a few years before the restoration. But, to the honour of our national humanity, there are no instances more modern than this, of carrying these laws into execution. (4 *Blackst.* 166.) And by the 23 *G. 3. c. 51.* the said act of 5 *El. c. 20.* is repealed. And this present statute regards them only under the denomination of rogues and vagabonds.

(9) Or pretending to have skill in physiognomy, palmestry, or like crafty science, or to tell fortunes.

(10) Or

- (10) Or using any subtil craft, to deceive and impose on any of his majesty's subjects. Using subtil craft.
- (11) Or playing or betting at any unlawful games or plays. Playing or betting.
- (12) All persons who run away, and leave their wives or children, whereby they become chargeable to any parish or place. (On this subject, see tit. *Poor, Relief*, vol. 4. Running away.
- (13) All petty chapmen, and pedlars, wandering abroad, not being duly licensed, or otherwise authorized by law. Pedlars unlicensed.
- (14) All persons wandering abroad, and lodging in ale-houses, barns, out-houses, or in the open air, not giving a good account of themselves. Persons not giving a good account of themselves.
- (15) All persons wandering abroad and begging, pretending to be soldiers, mariners, or sea-faring men. Beggars, pretending to be soldiers, seamen, &c.
- But this shall not extend to soldiers wanting subsistence, having lawful certificates from their officers, or the secretary at war; nor to mariners or sea-faring men licensed by some testimonial or writing under the hand and seal of some justice of the peace. But by 32 G. 3. c. 45. s. 7. the above is repealed; and all such soldiers and mariners wandering abroad and begging shall be deemed rogues and vagabonds within the meaning of the said act, notwithstanding such certificate or testimonial aforesaid.
- However, by the 43 G. 3. c. 61. soldiers, sailors, marines, and the wives of soldiers therein mentioned, are relieved against the penalties of the vagrant acts. Its provisions are stated, *ante*, tit. *Military Law, Soldiers*.
- (16) Or pretending to go to work in harvest. 17 G. 2. c. 5. Pretending to go to work in harvest.

But this shall not extend to any person going abroad to work at any lawful work in the time of harvest, so as he carry with him a certificate, signed by the minister and one of the churchwardens or overseers where he shall inhabit, that he hath a dwelling house or place there.

Which exception hath reference to a clause in the statute of the 13 & 14 C. 2. c. 12. concerning settlements, by which 40 days inhabitancy made a settlement; whereby it is enacted that it shall be lawful for any person to go into any country, parish, or place, to work in time of harvest, or at any time to work at any other work, so that he carry with him a certificate from the minister of the parish and one churchwarden and one overseer, that he hath a dwelling-house or place in which he inhabiteth, and hath left wife and children, or some of them there, (or otherwise as the condition of such person requireth,) and is declared an inhabitant there; and in such case, if he shall not return when his work is finished, or shall fall sick or impotent, it shall not be accounted a settlement.

(17) Touching

Illegally dealing
in lottery tickets
or shares.

(17) Touching lotteries: among the regulations relative thereto, contained in the 22 G. 3. c. 47. it is enacted that if any one keep an office for the sale of tickets in the public lottery, without a license from the stamp office, he shall forfeit 100*l*. And if any person shall sell the chance or share of a ticket for a less time than the whole time of drawing, or shall insure for or against the drawing of any ticket, or shall receive any money to return money or goods upon any contingency depending upon the tickets in the lottery, he shall forfeit 50*l*. And by 27 G. 3. c. 1. persons guilty of any of the preceding offences may also be proceeded against as rogues and vagabonds, under the vagrant act (17 G. 2. c. 5.); but if they are convicted as rogues and vagabonds, they shall be discharged from the pecuniary penalties.

Assembling at
night to destroy
game.

(18) And by 39 & 40 G. 3. c. 50. (a) persons to the number of two or more, who shall assemble together to destroy game in the night time, as persons aiding or assisting therein. *s. 1.*

All beggars.

(19) And all other persons wandering abroad and begging, shall be deemed rogues and vagabonds.

Persons having a
picklock key,
&c.

(20) Unto which must be added another species by the 23 G. 3. c. 88. whereby it is enacted as follows; viz. Any person apprehended, having upon him any picklock key, crow, jack, bit, or other implement, with an intent feloniously to break and enter into any dwelling-house, warehouse, coach-house, stable, or out-house, or who shall have upon him any pistol, hanger, cutlass, bludgeon, or other offensive weapon, with intent feloniously to assault any person; or shall be found in or upon any dwelling-house, warehouse, coach-house, stable, or out-house, or in any inclosed yard or garden, area belonging to any house, with intent to steal any goods or chattels;—shall be deemed a rogue and vagabond within the meaning of the statute of the 17 G. 2.

Any person apprehended, having upon him any picklock keys, &c.] M. 39 G. 3. R. v. Brown. Brown was committed upon the above act 23 G. 3. c. 88. for having upon him many picklock keys, two crows, and other implements, with an intent feloniously to break and enter into a dwelling-house at *Wantee*. Objection was taken to the commitment, that it did not state that he had those implements upon him, when he was apprehended. L. Kenyon, C. J. said, I yield with great reluctance to the objection, but I am afraid it is well founded: And the prisoner was discharged. 8 T. R. 26,

(a) See this act more fully, tit. *Gams, Killing hares in the night.*

(21) See

(21) So also by 39 & 40 G. 3. c. 87. *f.* 12. (a) Suspected persons and reputed thieves frequenting the *Thames*, and the quays and warehouses &c. adjoining, with a felonious intent.

III. *Incorrigible rogues.*

By the 17 G. 2. c. 5. Incorrigible rogues are thus described:

(1) All end gatherers offending against the statute of the 13 G., being convicted of such offence.

By which act of the 13 G. c. 23. *f.* 8. The offence is this, *viz.* The collecting, buying, receiving, or carrying any ends of yarn, wests, thrums, short yarn, or other refuse of cloth, druggot, or other woollen goods; and the punishment of such persons is in order to prevent their committing abuses, by such practices, in the woollen manufacture (*b.*)

(2) All persons apprehended as rogues and vagabonds, and escaped from the persons apprehending them; or refusing to go before a justice; or to be examined on oath before such justice; or refusing to be conveyed by such pass as is herein-after directed; or knowingly giving a false account of themselves on such examination, after warning given them of their punishment.

(3) All rogues or vagabonds who shall break or escape out of any house of correction before the expiration of the term for which they were committed or ordered to be confined by this act.

(4) All persons who, after having been punished as rogues and vagabonds, and discharged, shall again commit any of the said offences:—All these shall be deemed incorrigible rogues. *f.* 4.

(5) To which may be added, any person convicted of a third offence against the 6 G. 3. c. 48. See tit. *1000*.

IV. *Apprehending.*

If any person shall be found offending against this act, the constable shall apprehend him, and convey or cause him to be conveyed to a justice of the peace. 17 G. 2. c. 5. *f.* 5.

And any other person may apprehend him, and carry him to the constable, or to a justice. *Id.*

Constable to apprehend;

or any other person.

(a) This act to continue till 25th March 1807, and further by several statutes.

(b) Vide *R. v. Terratt*, which case arose upon the 13 G. 2. c. 23. *infra*, title *Woollen Manufacture*, at the conclusion of the fourth head.

Reward for
apprehending.

If any person, not being a constable, shall apprehend any such rogue or vagabond, and shall deliver him to a constable, or convey him to a justice; or if any constable shall so apprehend and convey him; it shall be lawful for such justice to reward him, by making an order (B) under hand and seal upon the high constable to pay 10s. to the person so apprehending him within one week after demand, and producing such order, and on his giving a receipt for the same; which shall be allowed by the treasurer to such high constable on passing his accounts, and delivering such order and receipt, and also his own receipt for the same to such treasurer; the treasurer also to be allowed the same in his accounts, on producing the said vouchers; and in towns corporate, and other places, where there are no high constables, such petty constable shall pay or retain such reward, and be allowed the same in his accounts, on producing the like vouchers. And if any high constable, or where there is none such, petty constable, shall refuse or neglect to pay such reward on demand, such justice by his warrant may levy the sum of 20s. by distress and sale of his goods, and thereout allow the said reward, and such other recompence for his trouble, loss of time and expences, as the said justice shall think fit; the overplus to be returned on demand. 17 G. 2. c. 5. s. 5.

But no justice shall order any reward to be paid to any constable or other person for apprehending any rogue or vagabond, until he shall have been publicly whipped (except women), or sent to the house of correction, as by this act directed; and until the examination required by the 17 G. 2. be actually transmitted to the next sessions. 32 G. 3. c. 45. s. 2.

Penalty for not
apprehending.

If the constable shall refuse or neglect to use his best endeavours to apprehend or convey to some justice such offender; or if any other person, being charged by any justice so to do, shall refuse or neglect to use his best endeavours to apprehend and deliver to the constable, or to carry such offender before some justice, where no constable can be found; he shall, being convicted thereof on view, or oath of one witness, before one justice, forfeit 10s. to the poor, by distress. 17 G. 2. c. 5. s. 5.

V. Privy search.

To be made four
times a year.

The justices or two of them, shall four times a year at least, or oftener (if need be,) meet in their respective divisions, and by their warrant (C), command the constables of every hundred, parish, town, and hamlet, who shall be assisted with sufficient men, to make a general privy search in one night for the apprehending of rogues and vagabonds; and every justice

justice shall also, on receiving information that rogues and vagabonds are in any place within his jurisdiction, issue his warrant to the constable, to search for and apprehend such rogues and vagabonds; and such as they shall find upon such search they shall cause to be brought before a justice. 17 G. 2. c. 5. s. 6.

And by the 25 G. 2. c. 36. s. 12. Two justices, in case any person apprehended upon a general privy search or by a special warrant shall be charged before them with being a rogue and vagabond, or an idle or disorderly person, or with suspicion of felony (although no direct proof be then made thereof), may examine such person on oath as to his settlement and means of livelihood; and the substance of such examination shall be put in writing, and signed by such person, and by the justices, and be transmitted to the next sessions, to be filed; and if such person shall not shew that he has a lawful way of getting his livelihood, or shall not procure some responsible housekeeper to his character, and to give security (if required) for his future appearance at some other day to be fixed for that purpose, the justices may commit him to some prison or house of correction, for any time not exceeding six days; and, in the mean time, order the overseers of the poor to advertise in some public paper, a description of his person, and any thing that shall be found on him, or in his custody, and which he shall be suspected not to have come honestly by, and the place of his commitment, and the time and place appointed for his re-examination; and if no accusation shall be then laid against him, he shall be discharged, or otherwise dealt with according to law.

Persons apprehended on a privy search.

VI. Examination.

Where any rogues or vagabonds, apprehended by any constable or such other person as aforesaid, shall be brought before a justice, he shall inform himself by the examination (D) upon oath of the person apprehended, or of any other person, of the condition and circumstances of the person so apprehended, and of the parish or place where he was last legally settled; the substance of which shall be put into writing, and be signed by the person or persons so examined; and the justice shall likewise sign the same, and transmit it to the next sessions, there to be filed and kept on record. 17 G. 2. c. 5. s. 7.

To be examined before a justice.

VII. Whipping or imprisonment.

And such justice shall order such person so apprehended to be publicly whipped (E) by the constable, petty constable, or some other person, to be appointed by such constable or petty

To be whipped, or imprisoned.

constable of the parish or place where such person was apprehended; or shall order him to be sent to the [common gaol, 27 G. 3. c. 11] or house of correction (F) till the next sessions,] or for any less time, [such less time not being for less than seven days, 32 G. 3. c. 45. s. 1.] as such justice shall think proper 17 G. 2. c. 5. s. 7.

[Note, It is only here expressed, generally, that he shall be publicly whipped; the form and manner thereof, may, perhaps, be best collected from the provisions of former vagrant acts. By the 22 H. 8. c. 12. the vagrant was to be carried to some market town or other place, and there tied to the end of a cart naked, and beaten with whips throughout such market town or other place, till his body should be bloody by reason of such whipping. By the 39 El. c. 4. he was to be stripped naked from the middle upwards, and only whipped, till his body should be bloody.]

* A doubt arose respecting this second class of persons "rogues and vagabonds" mentioned in the second section of the 17 G. 2. c. 5., to which class the powers given by the 7th and 9th sections are applicable, whether or not the commitment of the party to prison were a commitment for safe custody only or a commitment in execution; the seventh section which empowers the justice to commit not saying (as the first section does) "being thereof convicted," &c. In the case of *Baldwin and his wife v. Blackmore esq. E. T. 1758, Barrow, 595*, and in *R. v. Hall, 3 Burr. 1636*, this question was made at the bar: but the case was decided on other points, the court declining to give any opinion upon this. But in *R. v. Sparrow, M. 28 G. 3. B. R. 2 T. R. 196. (n. a)*; and in *R. v. Brooke, H. 28 G. 3. B. R. ib. 190*. it was determined that a commitment of a rogue and vagabond, in the one case for 14 days and in the other until the next sessions, was a commitment in execution, and consequently that the party could not be bailed. And this question was afterwards more fully discussed in a subsequent case, *R. v. Rhodes, E. 31 G. 3. B. R.* the defendant being brought up by *habeas corpus*, it appeared that he had been committed to the house of correction in *Middlesex*, under the following warrant; "Receive
" into your custody the body of *Francis Rhodes* herewith
" sent you, brought before me *J. Spiller*, esquire, one of his
" majesty's justices of the peace, &c. by *J. Armstrong*, con-
" stable, and charged before me the said justice, upon the
" oath of *Mary Green*, for being a rogue and vagabond
" within the intent and meaning of an act, intitled, &c.
" [17 G. 2.] for that the said *F. Rhodes*, on the 25th of
" March last, at, &c. did unlawfully use a certain subtle
" craft to deceive and impose upon the said *Mary Green*, by
" pretending to tell the fortune of the said *Mary Green*, and
" her

“ her husband *James Green*, and did then and there foretel
 “ events which should happen to and concern her husband
 “ *James Green*, contrary to the statute &c.; him the said
 “ *J. Rhodes* therefore safely keep in your custody until the
 “ next general sessions of the peace to be holden for the said
 “ county, then and there to be further dealt with according to
 “ law; and for so doing,” &c. [This case was argued on a
 motion to discharge the defendant out of custody, on the
 ground that the commitment was bad on the face of it.]—
L. Kenyon, Ch. J. after observing on the incorrect manner
 of penning this statute, said, It having been admitted, and
 very properly too, that a conviction must precede a commit-
 ment in execution, I think this commitment is absolutely
 void, and that the party cannot be called upon to give bail.
 Although the act does not say, in express terms, that the
 party accused must be convicted previous to his commitment,
 yet, considering the whole statute together, that must be the
 construction of it. The judgment of the magistrate is a par-
 tial punishment. The commitment by him is in execution of
 his sentence, and not by way of safe custody for a future trial.
 If the party accused be committed for a limited time, to ex-
 pire before the sessions, they of course can exercise no judg-
 ment upon it; if the commitment be till the next sessions,
 they may, if they see fit, adjudge a further imprisonment. But
 in neither case is it a commitment for trial. This therefore
 being a commitment in execution, there ought to have been
 a previous conviction; for want of which, the party is in-
 titled to be discharged.—*Ashhurst J.* This act of parlia-
 ment is so inaccurately drawn, that it is extremely difficult
 to understand it. But on considering the whole together, it
 strikes me that the magistrate may either convict the party
 accused, or commit him to prison till the next sessions for
 trial. If this were merely a commitment for safe custody, I
 should have thought the commitment good for that purpose,
 and consequently that the party must have given bail; but if
 it be considered as a commitment in execution, it cannot be
 supported without an adjudication. Now it appears to me,
 from the language of this commitment, that the magistrate
 meant this to be a commitment in execution; for it says,
 “ safely keep him in your custody until the next general ses-
 “ sions, &c. then and there to be further dealt with according
 “ to law.” Therefore the justice intended that the defendant
 should at all events be kept in prison till the next sessions, and
 then that he should suffer such further imprisonment as the
 sessions should judge. This then being a commitment in ex-
 ecution is bad for want of an adjudication that the party is
 guilty of the crime with which he is charged.—*Buller J.*

In the cases of *R. v. Brooks*, and *R. v. Aldred*, 2 T. R. 196. (x. a.) the court determined that a commitment under this act is in execution; and I continue to hold that opinion. This seems clear from the option given to the committing magistrate, as to the punishment to be inflicted; he is either to order the party to be whipped, or to commit him till the next sessions, or for a shorter period: now, in two of those instances, it is properly admitted that there must be a conviction of the offence to warrant the sentence; and there seems to be no reason why it should not also extend to the third instance, the legislature not having made any distinction between them. And as there might exist cases in which an imprisonment beyond the next sessions is necessary, power is given to the magistrates to commit the offender till the next sessions, who may increase the punishment if they think proper. This being the true construction of the act, the only question is, whether this warrant, on the face of it, be a good commitment in execution? and that it is not, cannot be doubted; first, because the party was not previously convicted; and secondly, because he is only committed till the next sessions, without adding "or until discharged by due course of law." [See *fi. 301 post. VII.*]—*Grose* J. of the same opinion. The legislature meant to give the magistrate jurisdiction to hear and determine the complaint, and to punish the offender; though, if imprisonment be part of the punishment, a limitation is annexed to it, and the justices can only imprison the party till the next sessions, who may order a further imprisonment if they think it right. But a commitment under this act is not for safe custody only, but in execution, and after a conviction of the offence. Therefore this warrant of commitment is bad; because it only states that the party had been "charged with," not that he had been "convicted of," the offence imputed to him. Defendant discharged. 4 T. R. 820.

The above decision was afterwards recognized and confirmed in *R. v. Cooper*, 6 T. R. 509.

And by 32 G. 3. c. 45. s. 1. No rogue and vagabond shall be whipped or imprisoned, and conveyed by a pass as such; who shall not have committed an act of vagrancy within the true intent and meaning of the 17 G. 2. c. 5., and ~~been convicted~~ thereof.

In the case of rogues and vagabonds therefore as well as in that of idle and disorderly persons, it is the duty of the committing magistrates to make a record of the (T) conviction of the party, and to transmit the same to the next quarter sessions.

No female to be
whipped.

No female convicted of being a rogue and vagabond, or
incorrigible

incorrigible rogue; before any justice, or at the sessions, shall be whipped in any case whatever. 32 G. 3. c. 45. s. 3.*

VIII. Other and further punishment.

And where any offender against this act shall be committed to the house of correction till the next sessions, and the justices at such sessions shall on examination of the circumstances of the case adjudge such person a rogue or vagabond, or an incorrigible rogue, they may order such rogue or vagabond to be detained in the house of correction to hard labour, for any further time not exceeding six months, and such incorrigible rogue for any further time not exceeding two years, nor less than six months; and during the time of such person's confinement, to be whipped in such manner, and at such times and place, as they shall think fit; and such person may, if the sessions think convenient, afterwards be sent away by a pass; and if such person, being a male, is above the age of 12 years, the court may, before he is discharged from the house of correction, send him to be employed in his majesty's service by sea or land; and if such incorrigible rogue, so ordered by the sessions to be detained in the house of correction, shall break out or make his escape, or shall offend again in like manner, he shall be guilty of felony, and be transported for seven years. 17 G. 2. c. 5. s. 4.

Power of the sessions.

T. 44 G. 3. R. v. Patchett. By virtue of the 17 G. 2. c. 5. the defendant was committed at the sessions as a rogue and vagabond; and they, adjudging him to be a *rogue and a vagabond*, ordered him to be further imprisoned, and kept to hard labour for six months, and to be *publicly whipped* during that time; and that, at the expiration of his imprisonment, he should be *sent and employed in his majesty's service* pursuant to the statutes; &c. The original conviction and the order of sessions having been removed by *certiorari* into the court of king's bench, two objections were taken to the order of sessions; 1st. That the sessions had no authority to order the defendant, who was only convicted as a rogue and vagabond, to be whipped; that punishment being confined to a person who is adjudged to be an *incorrigible rogue*, the words, "such person," referring only to that class of persons. 2dly. That the sessions had adjudged that the defendant should be *employed in his majesty's service* generally, without directing in what service; whether by sea or land. The court were of opinion that the first objection was not well founded; for that the words "such person" referred to "any offender."

* The paragraphs between the asterisks are as altered by Mr. Dureau, who had taken particular pains with this title: and in p. 726. 7, 8, are further observations made by him.

mentioned at the beginning of the clause, whether he be a rogue and vagabond only, or an incorrigible rogue. But they said that the second objection was fatal; that the justices at the sessions should have adjudged in which service, whether at sea or by land the defendant was to be employed; for that the statute meant that the justices should exercise their discretion in this respect, as well as in determining whether or not he should be employed at all in the service.

5 East's Rep. 339.

Transportation.

By the 13 & 14 C. 2. c. 12. The justices in sessions may transport such rogues, vagabonds, and sturdy beggars, as shall be duly convicted, and adjudged to be incorrigible. *f. 23.*

Children of
vagrants.

By the 17 G. 2. c. 5. If the child of any vagrant, above the age of seven years, shall be committed to the house of correction, the justices in sessions, if they see convenient, at any time before such child be discharged, may order such child to be placed out as a servant or apprentice to any person who is willing to take such child till such child shall be of the age of 21 years, or for a less time; and if any offender, who was found wandering with such child, shall be again found with the same child which was so placed out, he shall be deemed an incorrigible rogue. *f. 24.*

Where no settle-
ment can be
found,

Where any vagrants have been committed to the house of correction till the next sessions, if on examination of such persons, no place can be found, to which they may be conveyed, the sessions shall order them to be detained and employed in the house of correction, until they can provide for themselves, or until the justices in sessions can place them in some lawful calling, as servants, apprentices, soldiers, mariners, or otherwise, either within this realm, or in the plantations in America. *f. 28.*

* And whereas doubts have arisen and may arise where authority is given to any justice or justices of the peace to commit offenders to the house of correction for offences cognizable before them out of the general or quarter sessions of the peace, how long offenders may be there detained and in what manner treated, where the time and manner of their punishment is not by law expressly directed limited or appointed, it is enacted that where any offenders shall be committed as aforesaid by virtue of any law now in being or hereafter to be made, and the time and manner of their punishment is not expressly limited directed and appointed, the said justice or justices shall commit such offender to the house of correction, there to be kept to hard labour until the next general or quarter sessions, or until discharged by due course of law; and it shall be lawful for two justices (of which the justice who committed

committed such offender to be one) to discharge the said offender before the said sessions if they see cause; and if he shall not be so discharged, the said sessions may either discharge him, or continue him in custody for such time as they shall see fit, not exceeding three months. *f. 32.*

[For what purpose the 32d section was introduced into this act of parliament, or to what part of it in particular it is applicable, I can form no opinion. Were I to hazard a conjecture, I should be induced to suppose that it was proposed by some member of parliament after the bill had gone through some of its stages without his being aware of the provisions made in the preceding parts of the act. It has however received a judicial opinion in the court of king's bench in more cases than one, shewing its application to those clauses of the act (*f. 7. & 9.*) which authorize magistrates to commit a rogue and vagabond and an incorrigible rogue to the house of correction, and which empower the justices at the sessions to continue the party in custody for a longer period. It is therefore with great deference to the high authority from which such opinion proceeded that I offer the following observations to shew that the 32d section cannot have such an application.

This section begins with reciting that doubts *had arisen* and may arise where authority is given to any justice or justices of the peace to commit offenders to the house of correction for offences &c., how long offenders may be there detained, and in what manner treated where the time and manner of their punishment is not by law expressly directed &c., and then it enacts that where any offenders shall be committed as aforesaid by virtue of any law now in being or *hereafter to be made, and the time and manner of their punishment is not expressly limited directed and appointed*, the said justice or justices shall commit such offender to the house of correction, there to be kept to hard labour *until the next general or quarter sessions, or until discharged by due course of law*; then it empowers two magistrates, the committing magistrate being one, *to discharge the said offender before the sessions* if they see fit; and then it gives directions as to future punishment, by saying that if the offender be not so discharged, the sessions may either discharge him, or *continue him in custody for any time not exceeding three months.*

1st. The doubts that *had arisen* previous to that act of parliament could not have been then raised on the construction of that act.

2dly. It speaks of offenders committed by virtue of any law then in being or *thereafter to be made*; looking prospectively to commitments to take place under future laws.

3dly. By the very terms of this clause, it cannot apply to

the rogues and vagabonds before mentioned, because the time of their punishment is by the seventh section expressly directed and appointed.

4thly. The 7th section gives an option to the committing magistrate to commit the rogue and vagabond either until the next sessions, *or for any less time* as such justice or justices shall think proper: but if the 32d section apply to these rogues and vagabonds, it takes away the option before given to the committing magistrate, and compels him to commit the offender until the next sessions at all events; thereby inflicting a greater punishment on the offender than the committing magistrate might wish to order in particular cases, in the event of the sessions happening on a distant day.

5thly. By the 7th section a rogue and vagabond is to be committed until the next sessions, *or for any less time*, without suffering any other punishment at the same time: but the party committed under the 32d clause is *to be kept to hard labour* until the next sessions or until discharged by due course of law.

6thly. By the 7th section a rogue and vagabond is to be committed either till the next sessions, *or for any less time*: and according to all the later cases on this subject such a commitment is a commitment in execution, and consequently the party so committed cannot be bailed. So that the commitment under the 32d section in the alternative, until the next sessions *or until discharged by due course of law*, is absurd; since if the commitment be in execution, the party cannot be discharged by due course of law before the expiration of the time mentioned in the commitment.

7thly. The 32d section expressly empowers two justices to discharge the offender before the sessions, if they think proper: but, according to the construction put on the 7th clause, the commitment is in execution, and of course the offender cannot be discharged until the time mentioned in the conviction and warrant of commitment is expired.

8thly. The 32d section authorizes the justices at the sessions to continue the offender in custody for a further time, *not exceeding three months*, without any superadded punishment: whereas the cases of a rogue and vagabond, and of an incorrigible rogue, had been before provided for in the 9th section, which gives the sessions authority to continue the party in custody for a further time; *viz. if a rogue and vagabond not exceeding six months. and if an incorrigible rogue not exceeding 2 years nor less than 6 months*; and in both cases (according to a late decision in *R. v. Patchett*, 5 East's Rep. 339.) to order the party to be whipped; and also to be employed at the time of his discharge in his majesty's service either by sea or land.

For

For these reasons it appears to me that the 3^d section of this act of parliament cannot apply to the 7th and 9th sections respecting rogues and vagabonds and incorrigible rogues, but was intended to apply to other cases than those mentioned in the former parts of this act. And if the attention of the court of king's bench had been directed to the different operations of these different clauses, possibly it would not have been holden (as it was in *R. v. Rhodes*, *sup.* 772) that a commitment of a rogue and vagabond must conclude, "or until discharged by due course of law." C. D. 4.] (See the note in p. 725.)

IX. Conveying.

And after such whipping or confinement as aforesaid, the justice may, if he think convenient, by a pass (G. H.) under hand and seal, cause him to be conveyed to the place of his last legal settlement: but if it cannot be found, then to the place of his birth: or if he be under the age of 14 years, and have any father or mother living, then to the place of the abode of such father or mother, there to be delivered to some churchwarden or overseer. 17 G. 2. c. 5. §. 7.

And it shall be certified in the pass, that such person has been actually publicly whipped, or confined in the house of correction as aforesaid. 32 G. 3. c. 45. §. 1.

The justice shall make a duplicate of the pass and examination, and sign the same; and shall afterwards transmit the duplicate of the pass, annexed to the examination, to the next sessions, there to be filed and kept on record; and shall annex the duplicate of the examination to the pass, and send it with the same; and the said pass, examination and duplicate thereof, shall and may be read in any court of record as evidence. 17 G. 2. c. 5. §. 8.

And the justice who shall make the pass shall with the pass cause likewise to be delivered to the constable a note or certificate (I), ascertaining how they are to be conveyed, by horse, cart, or on foot, and what allowance such constable is to have for conveying them. §. 10.

The constable who shall receive such pass and certificate shall convey the person according to the direction of the pass the next direct way to the place whither he is ordered to be sent, if it be in the same county, riding, division, corporation, or franchise; if not, he shall deliver the said person to the constable of the first town, parish, or place, in the next county, riding, division, corporation, or franchise, in the direct way to the place whither he is to be conveyed, together with the pass and duplicate of the examination, taking his receipt for the same. And such constable shall, without delay,

Vagrant pass.

Duplicate to be made.

Certificate.

To be conveyed as directed by the pass.

lay, apply to some justice in the same county or division, who shall make the like certificate, and deliver it to such constable; who shall with all speed convey such person unto the first parish town or place in the next county or division; in the direct way to the place to which he is to be conveyed; and so from one county or division to another, till they come to the place to which such person is sent. And the constable, who shall deliver such person to the churchwarden or other person ordered to receive him, shall at the same time deliver the said pass, with the duplicate of the examination, taking their receipt for the same. *f. 11.*

May be conveyed by masters of houses of correction.

And whereas the present mode of conveying vagrants in the custody of a constable is frequently insufficient, it is enacted, that the justices in sessions may order that all rogues and vagabonds apprehended within their liberties, and ordered to be conveyed by pass, shall be conveyed by the master of the house of correction, or his servants, or by a constable, as they shall think proper; and they may make an order, that all constables, to whom rogues and vagabonds brought from another county are delivered, shall forthwith convey them to the nearest house of correction or within their liberty, to be afterwards removed by such master or his servants as aforesaid, and according to the provisions of the aforesaid act. 32 G. 3. c. 45. *f. 5.*

The passing of vagrants may be suspended.

But by 35 G. 3. c. 101. after reciting that poor persons are often passed to their settlements, during sickness, to the danger of their lives, for remedy whereof, it is enacted, that in case any poor person shall be brought before a justice for the purpose of being passed by a vagrant pass, and it shall appear to such justice that such poor person is unable to travel by reason of sickness or infirmity, or that it would be dangerous for such persons so to do, the justice granting such pass may suspend the execution thereof (K), until he be satisfied that it may be safely executed without danger; which suspension of, and subsequent permission to execute the same (L), shall be indorsed thereon, and signed by such justice, *f. 2.*

But not alter the power to pass or punish vagrants.

Provided, that nothing therein contained shall alter or abridge the power of justices to pass or punish vagrants as directed by the said act of 17 G. 2., except so far as regards the power of suspending the vagrant pass, in manner and for the purposes aforesaid. *Ib.*

By the 49 G. 3. c. 124. *f. 1.* It is enacted that in all cases whenever the execution of any order of removal, or of any vagrant pass, shall be suspended by virtue of the 35 G. 3. c. 101., any other justice of the peace of the county, or other jurisdiction within which such removal or pass shall be made, may direct and order the same to be executed, and

and the charges incurred to be paid, and may carry into execution any such amended orders, as fully as the same can be done by the justices who shall make the order of removal, or the justice who shall grant the pass.

. And by *f. 3.* In order to avoid any pretence for forcibly separating husband and wife, or other persons nearly connected with or related to each other, and who are living together as one family at the time of any vagrant pass granted, during the dangerous sickness or other infirmity of any one or more of such family, on whose account the execution of such pass is suspended, it is further enacted that where any vagrant pass shall be suspended by virtue of this or the recited act (35 G. 3. c. 101.) on account of the dangerous sickness, or other infirmity of any person thereby directed to be passed, the execution thereof shall also be suspended for the same period with respect to every other person named therein, who was actually of the same household or family of such sick or infirm person at the time of such pass granted.

Any justice before whom a vagrant shall be carried may order him to be searched, and his bundles to be inspected by the constable or other officer in his presence; and if it shall appear that such vagrant shall be found to have sufficient wherewithal to pay for his passage, either in whole or in part, the justice shall order so much of the money to be paid, or other effects found upon such vagrant to be sold, and employed towards the expence of taking up and passing such vagrant, returning the overplus, after deducting the charges of such sale. 17 G. 2. c. 5. *f. 12.* May be searched.

The justices in sessions shall limit what rates and allowances, by the mile or otherwise, shall be made, for conveying or maintaining rogues, vagabonds, or incorrigible rogues; and make such other orders for the more regular proceeding therein, as they shall think proper. *f. 16. 32 G. 3. c. 45. f. 6.* Allowance for conveying, &c.

And if any petty constable shall bring to any high constable such certificate as aforesaid, together with a receipt or note from the constable to whom the person was delivered, the said high constable shall pay the rates ascertained by such certificate, taking the petty constable's receipt; the high constable to be allowed the same by the treasurer on passing his accounts, on his delivering up such certificate and receipt, and giving his own receipt for the same to such treasurer; the same to be allowed the treasurer in his accounts, on his delivering up the vouchers aforesaid. And if the high constable shall refuse or neglect to pay the same on demand, it shall be lawful for one justice, by his warrant, to levy double the sum by distress, and thereout to allow the petty constable the sum ascertained by the certificate, and such other recompence

pence for his trouble, loss of time and expences; as the justice shall think fit; the overplus to be returned to the constable on demand. And in cities, towns corporate, and other places where there is no high constable, the petty constable shall be allowed what he shall so pay pursuant to such certificate in his accounts, on delivering up such vouchers: or if any master of a house of correction shall deliver such certificate and receipt to the treasurer, the treasurer shall pay the same to him, taking his receipt for the same, and be allowed the same in his accounts, on delivering up such vouchers. *f. 17.*

By the 26 G. 2. c. 34. Where the high constable hath not money in his hands sufficient to answer the said expences, the treasurer shall pay the same to such petty constable, on his producing the certificate, and such other vouchers, as aforesaid. *f. 2.*

Penalties for
neglect of duty,
&c.

And if any petty constable or governor of any house of correction shall counterfeit any such certificate or receipt, or knowingly permit any alteration to be made therein, he shall forfeit 50*l.* And if he shall not convey or cause to be conveyed such vagrants, or not deliver them to the proper person; or if any constable shall refuse to receive any such person, or to give such receipt, he shall forfeit 20*l.* by distress and sale, by warrant of the justices in sessions, where the offence shall be committed; half to the informer, and half to the treasurer, to be applied by him as part of the public stock; returning the overplus upon demand, charges of distress being first satisfied. 17 G. 2. c. f. 5. 18.

X. What to be done with at the place to which he is sent.

The parish or place to which any rogue vagabond or incorrigible rogue shall be conveyed shall employ in work, or place in some workhouse or alms-house, the person so conveyed, until he shall betake himself to some service or other employment; and if he shall refuse to work, or not betake himself to some service or other employment the overseers may cause him to be carried to some justice, to be sent to the house of correction, there to be kept to hard labour. 17 G. 2. c. f. 5. 19.

But if the churchwarden or other person who shall receive any person so sent, shall think the examination to be false, he may carry the person so sent before a justice, who, if he see cause, may commit such person to the house of correction till the next sessions; and the justices there, if they see cause, may deal with such person as an incorrigible rogue: but the person so sent shall not be removed from the place to which sent, but by order of two justices, in the same manner as other poor persons are removed to the place of their settlement. *f. 11.*

To be set to
work.

May be carried
before a justice.

But cannot be
removed but by
order of two

T. 16 G. 3. R. v. Ringwould. Edward Arnold was sent to *Ringwould* by a vagrant pass. *Ringwould* appealed to the sessions. The sessions dismissed the appeal, subject to the opinion of the court of king's bench, upon this question, whether an appeal lies from a vagrant pass? or, whether *Ringwould* should not take the vagrant back, that they may pursue the directions of the statute, by carrying the vagrant before two justices, in order to his being removed to his place of settlement? It was moved for a rule to shew cause, why the order of sessions should not be quashed.—At the argument of this cause, *L. Mansfield* and *Mr. J. Willer* were absent. The other two judges, *Mr. J. Aston* and *Mr. J. Ashurst*, were of opinion, that the act did not mean to give such an appeal as this. If the sessions, upon such appeal, should enter into the merits, they could not send him back to the place where he was only a vagrant, nor to any other. He cannot be removed from the place to which the pass hath sent him by any other method than an original order of two justices. The proper subject of an appeal is an adjudication; a pass only recites, that “it appears upon examination of the vagrant;” it is not such a positive adjudication, as there is an order of removal by two justices. He is passed to the place where he says he was settled: he cannot be sent from it, but by an order, which adjudges him to be settled elsewhere; from which adjudication, an appeal will properly lie to the sessions. There is no reason for an appeal in such a case, nor any hardship upon the parish to which the vagrant is passed; for as soon as they can find out where his legal settlement is, (if it really is not with them,) they may remove him to it by a common order of removal. The present appeal is only a general appeal from a pass; it does not shew any reason, nor make any particular objection: the sessions acted right in rejecting it. Order affirmed.—But a case being mentioned by the counsel, wherein it was holden that an appeal lay to the sessions, leave was reserved to mention the case again, if it could be made out. And afterwards, the court being then full, *Mr. J. Aston* said, that the case alluded to did not apply to the case in question; and if the settlement is not at *Ringwould*, but elsewhere, they may apply to two justices to remove him to it: and that is the only method by which it can be done. *B. S. C. 840. 2 Bott. 676. pl. 782.*

No appeal lies against a vagrant pass.

R. v. St. Lawrence Jury, London. Adjudged that an appeal does not lie generally by a parish against a vagrant pass. Whether it does in the case of a foreigner sent under a false examination, is yet undecided. *Cald. Cas. 18. 2 Bott. 677. pl. 783.*

XI. Scottish vagrants. (M.)

The constable of any parish or place, within the counties of Cumberland, Northumberland, Durham, or town of Berwick,

wick, shall, on any person being so delivered to him by a pass and examination, whose place of legal settlement is in *Scotland*, deliver the examination to the clerk of the peace, to be kept among the records; and convey such person with the pass into the next adjoining shire, stewartry, or place, in that part of the united kingdom, and deliver him to some constable or other officer of the next parish, district, or place within the said shire, stewartry, or place, taking his receipt for him; and such officer shall receive such person, and give such receipt, and dispose of him according to law. And if any such vagrant, after being so conveyed into *Scotland*, shall be found wandering, begging, or misbehaving himself in *England*, he shall be deemed an incorrigible rogue. 17 G. 2. c. 5. s. 14.

XII. Irish vagrants. (N)

Every master of a vessel bound for *Ireland*, the *Iles of Man*, *Jersey*, *Guernsey*, or *Scilly*, shall, on warrant to him directed, under the hand and seal of a justice of the place where such vessel shall lie (O), take on board such vagrant as shall be expressed in the warrant, and convey him to such place; and for the charges thereof the constable who serves him with the warrant shall pay him such rate by the head, as the justices in sessions shall appoint; and such master shall, on the back of the warrant, sign a receipt for the money so paid, and also for the vagrant so delivered. Which warrant, so indorsed, shall be produced to the justice who signed and sealed the same; and upon his allowance thereof under his hand, the money so paid shall be repaid by the county, as other money for conveying vagrants. And such master neglecting or refusing to transport such vagrants, or to indorse such receipt, shall forfeit 5l. to the poor of the parish or place where the offence shall be committed, to be levied by distress and sale of the ship or any goods within the same by warrant of one justice, returning the overplus, on demand, after the penalty and charges of the same are satisfied. 17 G. 2. c. 5. s. 14.

But no master shall be compelled to take on board more than one vagrant, for every 20 tons burthen. s. 15.

XIII. Lunatic vagrants.

Whereas there are sometimes persons, who by lunacy or otherwise are furiously mad, or so far disordered in their senses, that they may be dangerous to be permitted to go abroad, it shall be lawful for two justices, where such persons shall be found, by their warrant (P), directed to the constables churchwardens and overseers, or some of them, to

cause such person to be apprehended, and kept safely locked up in some secure place within the county or precinct, as such justices shall appoint; and if such justices find it necessary, to be there chained, if the settlement of such person be within such county or precinct, and if not, then to be sent to the place of his last legal settlement by a pass, *mutatis mutandis*, and shall be locked up or chained, by warrant of two justices of the place to which he is sent: And the reasonable charges of removing and of keeping maintaining and curing such person during such restraint, (which shall be during such time only as such lunacy or madness shall continue,) shall be paid, such charges being first proved upon oath, by order of two justices (Q) directing the churchwardens or overseers, where any goods chattels lands or tenements of such persons shall be, to seize and sell so much of the goods and chattels, to receive so much of the annual rents of the lands and tenements, as is necessary to pay the same; and to account for what is so seized sold or received to the next sessions: But if such person hath not an estate to pay the same, over and above what is sufficient to maintain his family, then such charges shall be paid by the parish town or place, to which such person belongs, by order of two justices, directed to the churchwardens and overseers for that purpose. 17 G. 2. c. 5. f. 20.

But this shall not extend to restrain the king's prerogative, or power of the lord chancellor, or the chancellor of the county palatine of *Lancaster*, or the chamberlain of the county palatine of *Chester*, concerning such lunatics; or to restrain or prevent any friend or relation of such lunatics taking them under their own care and protection. f. 21.

See title *Lunatics*, ante, vol. 3.

XIV. *Penalty of lodging vagrants.*

If any person shall knowingly permit any rogue, vagabond, or incorrigible rogue, to lodge or take shelter in his house barn or other out-house or building, and shall not apprehend and carry him before a justice, or give notice to the constable so to do; and shall be convicted thereof by confession, or oath of one witness, before one justice, he shall forfeit not exceeding 40s. nor less than 10s., half to the informer, and half to the poor, by distress and sale; and if any charge shall be brought on any parish or place by means of such offence, the same shall be answered to the said parish or place by such offender, and he levied by distress and sale of his goods as aforesaid: And if sufficient distress cannot be found, such offender shall be committed to the house of correction by the justice, for any time not exceeding one month. 17 G. 2. c. 5. f. 23.

XV. *Children*

XV. *Children born in vagrancy.*

Charges to be paid out of the county.

Whereas women wandering and begging are often delivered of children in parishes and places to which they do not belong, whereby they become chargeable to the same, it is enacted that where any such woman shall be so delivered and become chargeable, the churchwardens or overseers may detain such woman in their custody, until they can safely convey her to a justice; who shall examine her, and commit her to the house of correction until the next sessions, who may, if they see convenient, order her to be publicly whipped, and detained in the house of correction for any further time, not exceeding six months. And upon application by the churchwardens and overseers of the place where she was so delivered, the justices at such sessions shall order the treasurer to pay them such a sum as shall be adjudged a reasonable satisfaction for the charges such place has been put to on such woman's account. And if such woman shall be detained and conveyed to a justice as aforesaid, the child of which she is delivered, if a bastard, shall not be settled in the place where so born, nor be sent thither for want of other settlement by a pass, by virtue of this act; but the settlement of such woman shall be deemed the settlement of such child. 17 G. 2. c. 5. s. 25.

Child, though a bastard, to follow its mother's settlement.

Justice to make a record of the whole.

And that it may appear that the overseers have done what was incumbent upon them, in order to avoid such settlement, it is requisite for the justice (as he ought to do in all other cases wherein he acteth as judge) to make a record (R) of the whole proceedings before him; which record (as it seemeth) will be the proper evidence in such case, if the settlement shall afterwards be contested.

XVI. *General penalty for hindering the execution of the vagrant act.*

If any constable, or other officer, or governor of any house of correction, shall be defective in his duty, in any case for which no punishment is herein before particularly provided; or if any person shall hinder the execution of this act; or shall rescue any person apprehended or passing from place to place by virtue thereof; or shall be advising, aiding, or assisting to his escape; and shall be thereof convicted on oath of one witness before one justice, he shall forfeit not exceeding 5l. nor under 10s. to the poor, by distress; and if sufficient distress cannot be found, to be committed to the house of correction, to be kept to hard labour, not exceeding two months. 17 G. 2. c. 5. s. 22.

XVII. *Charges*

XVII. Charges of maintaining and conveying vagrants.

To defray the expences of apprehending, conveying, and maintaining rogues, vagabonds, and incorrigible rogues, and defraying all other expences necessary for the execution of this act not herein before provided for, the justices in sessions may cause such sums as shall be necessary to be raised in the same manner as the general county rate. 17 G. 2. c. 5. f. 33.

XVIII. Appeal.

Any person aggrieved by any act of any justice out of sessions in or concerning the execution of this act may appeal to the next general or quarter sessions of the county, riding liberty or division, giving reasonable notice thereof; whose order thereupon shall be final. 17 G. 2. c. 5. f. 26.

But notwithstanding the above, in the case of *R. v. Ringwood*, and *R. v. St. Lawrence, Old Jewry* (see before, 10th section,) it was determined that an appeal does not lie by a parish against a vagrant pass, however it might be if the vagrant himself appealed.

XIX. Treble costs.

Persons sued for any thing done in the execution of this act may plead the general issue; and if they recover, shall have treble costs. 17 G. 2. c. 5. f. 34.

XX. Exception of special franchises.

In all cities and towns, where by virtue of special acts of parliament the charge of passing vagrants is to be defrayed in other manner than is by this act directed, or where such vagrants, by virtue of special statutes, are to be apprehended and conveyed by any person or officer, other than those named in this act, the same shall not be altered hereby: And persons conveyed in *London*, shall not be delivered in any other precinct within the city, but in the next county. 17 G. 2. c. 5. f. 27.

A. Order upon the overseers to pay 5s. for apprehending a person begging in his own parish; which is not to be issued until such person has been whipped (except women) or sent to prison.

Westmorland. { To the overseers of the poor of the parish
of _____ in the said county.

WHEREAS it duly appears unto me J. M. esquire, one of his majesty's justices of the peace in and for the said county, that A. O. of _____ in the parish of _____ in the said county,

an idle and disorderly person, did on the — day of — go about from door to door [or, place himself in the streets, highways, and passages] in the said parish, to beg and gather alms there; and was then and there apprehended in the said parish of — by A. A. an inhabitant of the said parish, and was by him brought before me in order to be dealt withal according to law; I do hereby order you, or some or one of you, to pay unto the said A. A. the sum of 5s. on demand, as a reward for apprehending the said A. O. he producing and delivering to you this order, and giving to you a receipt for the said sum. Given under my hand and seal at G. in the said county, the — day of — in the — year of the reign of —.

B. Order for payment of 10s. for apprehending a vagrant; which is not to be issued till such vagrant has been whipped (except women) or sent to prison.

Westmorland. } To the high constable of —.

WHEREAS it duly appeareth unto me J. T. esquire, one of his majesty's justices of the peace for the said county, that A. R. a rogue and vagabond, was found wandering and begging [or, as the case shall be,] in the parish of — in the said county; which said A. R. was this day apprehended and brought before me by A. I. of — yeoman, in order to be dealt withal according to law; I do hereby order you to pay unto the said A. I. as a reward for apprehending and bringing before me the said rogue and vagabond the sum of 10s. within one week after demand thereof made, upon his producing and delivering to you this order, and giving unto you his receipt for the same. Given under my hand and seal at B. in the said county, the — day of —.

C. Warrant for privy search.

Westmorland. } To the high constable of *Lonsdale Ward*, within the said county.

AT a meeting of the justices of our lord the king assigned to keep the peace within the said county, hold at — for the division of *Lonsdale Ward* aforesaid, this — day of — in the — year of the reign of — by us — esquires, two of the said justices assembled at the said meeting, being residents living and dwelling within the said division.

We do hereby command you forthwith to issue your warrants to all the petty constables within the said ward for making a general privy search for rogues and vagabonds, according to the form hereon indorsed. Given under our hands and seals at — aforesaid in the county aforesaid, the day and year aforesaid.

The form of the said high constable's warrant.

Westmorland, } To the constable of ———.
Lonsdale Ward.

BY virtue of a precept from his majesty's justices of the peace for the said county, acting in and for the said ward, at their special meeting for that purpose assembled, you are hereby required in his said majesty's name, commanding and taking to your assistance sufficient men within your constableness, (who are hereby required to assist you accordingly,) to make a general privy search in the night of the ——— day of ——— throughout your said constableness, for the finding and apprehending of rogues and vagabonds: And such as you shall so find upon such search you are to carry forthwith before some of his majesty's justices of the peace for the said county, to be dealt with according to law: Herein fail you not. Given under my hand the ——— day of ——— in the year of our Lord ———.

E. C. High constable. ———

D. Examination of a vagrant.

Westmorland. { **THE** examination of A.O. a rogue and vagabond, taken on oath before me ——— one of his majesty's justices of the peace in and for the said county, the ——— day of ——— in the said ——— year of the reign of ———

Who on his oath saith, That he was born at ——— [and so trace out the history of his life, so far forth as to ascertain his legal place of settlement:]

A.O.

Taken and signed the day and year above-written, before me the abovesaid

his mark.

J. P.

E. Warrant to the constable for whipping a vagrant.

Westmorland. { To the high constable of ———.

FORASMUCH as A.O. late of ——— in the county of ——— a rogue and vagabond is duly convicted before me W. L. clerk, one of the justices of our lord the king assigned to keep the peace within the said county of ——— far that he the said A.O. did this day wander abroad and beg in the parish of ——— in the said county of ——— I do therefore hereby command you to strip or cause to be stripped the said A.O. naked from the middle upwards, and publicly to whip or cause him to be whipped till his body be bloody, and afterwards to remove and convey the said A.O. according to the directions of the pass herewith delivered

livered to you. Given under my hand and seal at M. in the said county of — the — day of — in the — year —.

F. Commitment of an idle and disorderly person under the 17 G. 2. c. 5.

County of. { To the constable of — in the said county,
and to the keeper of the house of correction
at — in the said county—.

WHEREAS G. C. *was this day duly convicted before me — one of the justices of our lord the king, assigned to keep the peace of our said lord the king in and for the said county of — and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county, convicted of being an idle and disorderly person, for that he, on the — day of — in the year of our Lord — at — in the parish of — in the said county, did go about from door to door, and did place himself in streets, highways, and passages to beg and gather alms in the said parish in which the said G. C. then dwelt [or, as the case may be], contrary to the form of the statute in such case made and provided, and was by me adjudged to be committed for the said offence to the house of correction, there to be kept to hard labour for one month, according to the form of the said statute. These are therefore to command you the said constable, to carry the said G. C. to the said house of correction, and him to deliver to the keeper thereof, together with this warrant. And I do hereby command you the said keeper, to receive the said G. C. into your custody, in the said house of correction, and him there safely keep (a) to hard labour for one month. And for so doing this shall be your sufficient warrant. Given under my hand and seal at — this — day of — in the — year of the reign of his present majesty king George the third, and in the year of our Lord —.*

(a) If the warrant be of a rogue and vagabond until the Sessions, add, “until the next general sessions of the peace to be holden in and for the said county of W. then and there to be further dealt with according to law, and have you him there, together with this precept, or until he the said G. C. shall be discharged by due course of law.” And in the case of a *rogue and vagabond*, the party is not to be sentenced to hard labour.

G. Vagrant pass within the same jurisdiction.

Westmorland. { To the constable of ——— in the said county, to receive and convey; and to the churchwardens, chapelwardens, or overseers of the poor of the parish of ——— in the said county or either of them, to receive and obey.

WHEREAS A. O. was apprehended within the constablewick of ——— afore said, in the county afore said as a rogue and vagabond, and is duly convicted before me J. P. esquire, one of his majesty's justices of the peace in and for the said county, of being a rogue and vagabond, for that he the said A. O. did this day wander abroad and beg in the said township of ——— [or, as the case may be,] and upon examination of the said A. O. taken before me the justice afore said, upon oath, (which examination is hereunto annexed,) it doth appear that ——— These are therefore to require you the said constable to convey the said A. O. in the next direct way to the said parish of ——— within the said county, and there to deliver him to some churchwarden, chapelwarden, or overseer of the poor of the same parish of ——— to be there provided for according to law. And you the said churchwardens, chapelwardens, and overseers of the poor, are hereby required to receive the said person, and provide for him as afore said. And I do hereby certify that the said A. O. hath been actually publicly whipped, [or, confined in the house of correction for the space of ———]. Given under my hand and seal the ——— day of ——— in the year of our Lord ———.

H. Vagrant pass from county to county.

Westmorland. { To the constable of ——— in the said county of W. and also to all constables and other officers, whom it may concern, to receive and convey; and to the churchwardens, chapelwardens, or overseers of the poor of the parish of ——— in the county of ——— or either of them, to receive and obey.

WHEREAS A. O. was apprehended in the township of ——— afore said, in the county of W. afore said, as a rogue and vagabond, and is duly convicted before me J. P. esquire, one of his majesty's justices of the peace in and for the said county of W. of being a rogue and vagabond, for that he the said A. O. did this day wander and beg in the said township of ——— [or, as the case may be]; and upon examination of the said A. O. taken before me the justice afore said upon oath, (which examination is hereunto annexed,) it doth ap-

dear that his last legal settlement is in the parish of ——— in the county of ———: These are therefore to require you the said constable, [or other officer as the case may be] to convey the said A. O. to the town of ——— in the county of ——— that being the first town in the next precinct through which he ought to pass in the direct way to the said parish of ——— in the county of ——— to which he is to be sent, and to deliver him to the constable or other officer of such first town in such next precinct, together with this pass, and the duplicate of the examination of the said A. O. taking his receipt for the same. And the said A. O. is to be thence conveyed on in the like manner to the said parish of ——— to be there provided for according to law. And you the said churchwardens, chapelwardens and overseers of the poor, are hereby required to receive the said person, and provide for him as aforesaid. And I do hereby certify that the said A. O. hath been actually publicly whipped [or confined in the house of correction for the space of ———]. Given under my hand and seal the ——— day of ——— in the year of our Lord ———.

- I. The certificate, according to the directions of the statute, shall be in the form, or to the effect following.

Westmorland. { To the constable of K. in the said county.

WHEREAS by a pass under the hand and seal of ——— Esquire, one of his majesty's justices of the peace for the county of ——— A. O. a rogue and vagabond is ordered to be conveyed to the parish of P. in the county of C. as the place of his last legal settlement; I do hereby order you the said constable of K. to convey the said A. O. on foot, (or, in a cart, or, by horse) to the township of D. in the county of L. in the way to the said parish of P. in ——— days time; for which you are to be allowed the sum of ——— and no more. Given under my hand the ——— day of ———.

Receipt to be indorsed on the said certificate.

RECEIVED of the constable of K. the within mentioned A. O. with his examination and pass; the ——— day of ———.

By me,

A. C.

Constable of D.

K. Form of the suspension of a vagrant pass, to be indorsed on the back thereof.

WHEREAS it doth appear unto me J. P. the justice within named, that A. V. the vagrant within ordered to be passed is at present unable to travel by reason of sickness and infirmity,

mity, [or, that it would be dangerous for him so to do, as the case may be]; I do therefore hereby suspend the execution of the within pass until it shall be made appear unto me that it can safely be executed without danger. Given under my hand the _____ day of _____ J. P.

L. Form of a subsequent permission to execute such pass, to be indorsed thereon.

WHEREAS it is now made appear unto me J. P. the justice aforesaid, and I am now fully satisfied, that the within pass may be executed without danger; I do therefore order the same to be forthwith put in execution accordingly. Given, &c. J. P.

M. Vagrant pass to Scotland.

Westmorland. { To the constable of _____ in the said county of W. and also to all constables and other officers whom it may concern, to receive and convey; and to all constables and other officers within that part of Great Britain called Scotland, whom it may concern, to receive and obey.

WHEREAS A. O. was apprehended in the town of _____ aforesaid, in the county of W. aforesaid, as a rogue and vagabond, and is duly convicted before me J. P. esquire, one of his majesty's justices of the peace in and for the said county of W. of being a rogue and vagabond, for that he the said A. O. did this day wander and beg in the said township of _____ [or as the case may be]; and upon examination of the said A. O. taken before me the justice aforesaid upon oath, (which examination is hereto annexed,) it doth appear that his lawful place of settlement is in that part of Great Britain called Scotland; These are therefore to require you the said constable of _____ aforesaid, in the county of W. aforesaid, to convey the said A. O. to the town of _____ in the county of _____ that being the first town in the next precinct through which he ought to pass, in the direct way to that part of Great Britain called Scotland aforesaid, to which he is to be sent, and to deliver him to the constable or other officer of such first town, in such next precinct, together with this pass, and the duplicate of the examination of the said A. O. taking his receipt for the same; and the said A. O. is to be thence conveyed on in like manner into the next adjoining shire, stewartry, or place in that part of Great Britain called Scotland aforesaid, and is there to be delivered to some constable or other officer of the next parish, district, or place within such next adjoining shire, stewartry, or place aforesaid, taking his receipt for the same; and such next officer in that part of Great Britain called Scotland aforesaid

aforesaid, is hereby required to receive the said A. O. and give such receipt as aforesaid, and to dispose of him the said A. O. according to law. And I do hereby certify, that the said A. O. hath been actually publicly whipped [or confined in the house of correction for the space of ———]. Given under my hand and seal this ——— day of ——— in the year of our Lord ———.

N. Vagrant pass to Ireland.

Westmorland.

To the constable of ——— in the said county; and also to all constables and other officers whom it may concern, to receive and convey; and to all other officers of the peace, whom it may concern, to receive and obey.

WHEREAS A. O. was apprehended in the town of ——— in the said county, as a rogue and vagabond, and is duly convicted before me J. P. esquire, one of his majesty's justices of the peace in and for the said county, of being a rogue and vagabond, for that he the said A. O. did this day wander and beg in the said township of ——— [or as the case may be]; and upon examination of the said A. O. taken before me the justice aforesaid upon oath (which examination is hereunto annexed.) it doth appear that the lawful settlement of him the said A. O. is in the kingdom of Ireland; These are therefore to require you the said constable of ——— to convey the said A. O. to the town of ——— in the county of ——— that being the first town in the next precinct through which he ought to pass, in the direct way to the said kingdom of Ireland, to which he is to be sent, and to deliver him to the constable or other officer of such first town in such next precinct, together with this pass, and the duplicate of the examination of the said A. O. taking his receipt for the same: And the said A. O. is to be thence conveyed on in like manner until he shall arrive in the county of ——— and the constable or other officer to whom he shall be delivered in the said county of ——— is hereby required to apply to some justice of the peace in and for the said county of ——— for a warrant to the master of any ship or vessel bound for the said kingdom of Ireland, that shall lie in the said county of ——— to take on board the said ship or vessel him the said A. O. and convey him to such place in the said kingdom of Ireland, as such ship or vessel shall be bound unto. And I do hereby certify that the said A. O. hath been actually publicly whipped [or confined in the house of correction for the space of ———]. Given under my hand and seal the ——— day of ——— in the year of our Lord ———.

O. Warrant to a master of a ship to export a vagrant.

Westmorland. { J. P. esquire, one of the justices of our lord the king, assigned to keep the peace within the said county: To A. M. master of the ship called the _____ of _____ now lying or being at _____ and bound for _____ in the kingdom of Ireland, sendeth greeting.

THESE are, in the name of our said lord the king, to require you to take on board the said ship A. O. and B. O. vagrants, both of them being natives of the kingdom of Ireland aforesaid, and having no settlement in England, and them to convey to _____ aforesaid in the kingdom of Ireland aforesaid, or to such other place in that kingdom as you shall arrive at; and for the charges thereof you shall, take and A. C. constable of _____ at the time he shall serve you with this warrant, shall pay, and is hereby required to pay unto you the sum of _____ in the whole; that is, at the rate of _____ by the head, for each of the said vagrants so to be delivered unto you, the same being the rate last appointed by the justices of our said lord the king, assigned to keep the peace within the said county, at their general quarter sessions of the peace held in and for the said county. And you are, on the back of this warrant, to sign a receipt for the money so paid, and also for the said vagrants so delivered unto you. Given under my hand and seal at _____ in the said county, the _____ day of _____ in the _____ year _____.

P. Warrant to secure a lunatic.

Westmorland. { To the constables, churchwardens, overseers of the poor of _____.

WHEREAS it hath been proved before us _____ two of the justices of our lord the king, assigned to keep the peace within the said county, upon the oaths of A. W. and B. W. both of the parish of _____ in the county aforesaid, gentlemen, that A. L. late of _____ frequently goeth at large in the said parish of _____ and that he the said A. L. is by lunacy so far disordered in his senses, that he is dangerous to be permitted to go abroad; and that his legal settlement is in the parish of _____ These are therefore to authorize and require you, and every of you, to cause the said A. L. to be apprehended and kept safely locked up in the house of A. K. at _____ in the said county, the said A. K. being willing to keep and entertain him the said A. L. for a reasonable allowance in that behalf, and the said house being a secure place: And the said A. L. is to be kept so locked up only so long as such lunacy or disorder shall continue, and no longer. Given under our hands

hands and seals at ——— in the said county, the ——— day of ———

Q. Order to charge the lunatic's estate with his keeping, maintenance, and cure.

Westmorland. **To the churchwardens and overseers of the poor of the parish of ——— in the said county.**

WHEREAS A. L. late of ——— in the said county, being a person lunatic, and so far disordered in his senses, that he was and is dangerous to be permitted to go abroad, both by warrant under the hands and seals of us ——— two of his majesty's justices of the peace for the said county, been apprehended and safely locked up in the house of A. K. at ——— in the said county, the said house being a secure place for that purpose; and whereas it appears to us, on the oaths of C. W. churchwarden, and O. P. overseer of the poor of ——— that they the said churchwarden and overseer have reasonably expended the sum of ——— in removing the said A. L. to the said house of the said A. K. and in keeping, maintaining, and curing him there; These are therefore to authorize and command you, to seize and sell so much of the goods and chattels, and to receive so much of the annual rents of the lands and tenements of him the said A. L. within your said parish, as shall be necessary to pay the same; And for what shall be so seized, sold, or received by you, you are to account at the next quarter sessions of the peace to be holden for the said county. Given under our hands and seals at ——— in the said county, the ——— day of ———.

R. Record to avoid the settlement of a bastard child born in vagrancy.

Westmorland. **BE** it remembered, that on the ——— day of ——— in the ——— year of the reign of our sovereign Lord George the third. of the united kingdom of Great Britain and Ireland, king. defender of the faith, A. B. and C. D. overseers of the poor of the parish of ——— in the said county, at ——— in the said county, do bring unto me ——— one of the justices of our said lord the king, assigned to keep the peace within the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, the body of one A. P. and do complain unto me the justice aforesaid, and give me to be informed that on the ——— day of ——— in the year aforesaid, at ——— in the parish aforesaid, in the county aforesaid. she the said A. P. was wandering and begging, and that she the said A. P. then and there, to wit, on the said ——— day of ——— at ——— aforesaid, in the parish aforesaid, and county aforesaid, so wandering and begging, was

was delivered of a (male) child, and that thereby she the said A. P. hath become chargeable, and is now chargeable to the said parish of ——— and that she the said A. P. had not then nor yet, both any lawful settlement in the said parish of ——— And thereupon they the said overseers of the poor of the parish aforesaid do pray of me the justice aforesaid that for themselves, and for the other inhabitants of the parish aforesaid, a due remedy may be provided, and that justice may be done in that behalf, according to the form of the statute in that case made. Which complaint, information, and prayer, by me the justice aforesaid being heard, I the said J. P. ——— aforesaid, in the county aforesaid, on the said ——— day of ——— in the year aforesaid, upon the examination of the said A. P. upon oath by me unto her upon the holy gospel administered, and upon other lawful evidence and testimony before me had and made, do find that on the ——— day of ——— [and so on, verbatim, as is set forth above in the information]: And thereupon it is considered by me the justice aforesaid, that she the said A. P. be committed, and is by me committed to the house of correction at ——— in the county aforesaid until the next quarter sessions of the peace, to be held within and for the said county. In testimony whereof, I the said J. P. the justice aforesaid, at ——— aforesaid, in the county aforesaid, the ——— day of ——— aforesaid, in the year aforesaid, unto this record do set my seal.

8. Conviction of an idle and disorderly person under
17 G. 2. 65.

County of **BE** it remembered, that on the ——— day of ——— in the ——— year of the reign of our sovereign lord George the third, of the united kingdom, &c. and in the year of our Lord ——— at ——— in the said county of ——— bringeth before me ——— one of the justices of our said lord the king, assigned to keep the peace of our said lord the king in and for the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, the body of G. C., and giveth me the justice to understand, and be informed, that on the ——— day of ——— in the year aforesaid, at ——— in the parish of ——— in the county aforesaid, the said G. C. did go about from door to door (a), and did place himself in streets, highways, and passages to beg and gather alms in the said parish, in which said parish the said G. C. then dwelt, contrary to the form of the statute in such case made and provided. And thereupon he the said A. B. prayeth of me the said justice, that the said G. C. be dealt with according to law for his said

SECTION

(a) If for any other offence, which brings the offender under the description of an idle and disorderly person, set it forth in the words of the statute.

offence.

offence. Whereupon the said G. C. is asked by me the said justice if he can say any thing for himself why he the said G. C. should not be convicted of the said offence above charged upon him in form aforesaid; who pleadeth that he is not guilty thereof. Whereupon I do now proceed to examine into the truth of the complaint so brought by the said A. B. against the said G. C., and hereupon, on the day and year first aforesaid, at — aforesaid, in the county aforesaid, he the said A. B. being a credible witness upon his corporal oath upon the holy evangelists of God, now administered to him by me the said justice in the presence and hearing of the said G. C. deposeth and saith, that on the — day of — aforesaid, in the year aforesaid, in the county aforesaid, he the said A. B. saw the said G. C. go about from door to door, and place himself in streets, highways, and passages, to beg and gather alms in the said parish, and that he heard the said G. C. beg alms of many persons in such streets, highways and passages; and that the said G. C. then dwelt in the said parish, and the said G. C. doth not produce before me any evidence to gainsay the same. Therefore it manifestly appeareth to me the said justice, that the said G. C. is guilty of the offence above charged upon him in manner and form as in and by the said complaint is alleged, and is thereby an idle and disorderly person within the intent and meaning of the said statute. It is therefore adjudged by me the said justice, that the said G. C. be convicted of the said offence, and he is hereby by me accordingly convicted of the offence charged upon him in and by the said complaint, according to the form of the statute in such case made and provided. And I do adjudge that the said G. C. for his said offence be committed and the said G. C. is by me committed to the house of correction at — in and for the said county, there to be kept to hard labour for one month, according to the statute in that case made and provided. In testimony whereof I the said — to this record of conviction have put my hand and seal, so being such justice aforesaid, at — aforesaid, in the county aforesaid, the said day of — in the said year of our sovereign lord, king George the third, &c. and in the year of our Lord —.

T. Conviction of a rogue and vagabond under the 17 of G. 2. c. 5.

County of. **BE** it remembered, that on the — day of — in the — year of the reign of our sovereign lord, king George the third, of the united kingdom, &c. and in the year of our Lord — at — in the said county of — bringeth before me — one of the justices of our said lord the king, assigned to keep the peace of our said lord the king, in and for the said county. and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, the body of one G. C., and giveth me the said justice to understand

and be informed that on the — day of — in the year aforesaid, at — aforesaid, in the parish of — in the said county, he the said A. B. apprehended the said G. C. then and there wandering abroad and begging, pretending to be a sea-faring man (a), contrary to the form of the statute in such case made and provided. And thereupon the said A. B. prayeth of me the said justice, that the said G. C. may be dealt with according to law, for his said offence. Whereupon the said G. C. is asked by me the said justice if he can say any thing for himself, why he the said G. C. should not be convicted of the offence above charged upon him, in the form aforesaid, who pleadeth that he is not guilty thereof. Whereupon I do now proceed to examine into the truth of the complaint so brought by the said A. B. against the said G. C. And thereupon, on the day and year first aforesaid, at the parish of — aforesaid, in the county aforesaid, the said A. B. being a credible witness, on his corporal oath, upon the holy evangelists of God, now administered to him by me the said justice, in the presence and hearing of the said G. C. deposeth and saith, that on the — day of — in the year aforesaid, at — aforesaid, in the parish aforesaid, in the county aforesaid, he the said A. B. saw the said G. C. wandering abroad and begging, pretending to be a sea-faring man, and that the said A. B. heard the said G. C. beg charity of several persons, saying that he was a sea faring man. And the said G. C. doth not produce before me any evidence to gainsay the same. Therefore it manifestly appears to me the said justice that the said G. C. is guilty of the offence above charged upon him, in manner and form as in and by the said complaint alleged; and is thereby a rogue and vagabond within the true intent and meaning of the said statute. It is therefore

(a) If for any other matter, that makes the party a rogue and vagabond, set it forth in the words of the statute. If it be a conviction under st. 39 and 40 Geo 3. c. 50.. it may be thus :
 " And giveth me to understand and be informed that after the
 " passing of a certain act of parliament made in the 39th and
 " 40th year of His present Majesty's reign, intituled, "An act to
 " extend the provisions of an act made in the 17th year of the
 " reign of King George the second, intituled, "An act to amend
 " and make more effectual the laws relating to rogues, vagabonds
 " and other idle and disorderly persons, and to houses of correc-
 " tion," they the said G. C. and S. C. in the night, that is to say be-
 " tween the hours of eight of the clock at night and six in the morn-
 " ing, between the first day of *October* and the first day of *February*,
 " to wit, about the hour of eleven in the night of the — day
 " of *January* last, at the parish of — in the said county of —
 " were found in an open ground in — Chace, there having a
 " gun for the purpose, and with the intent to destroy hares &c.,
 " or did then and there wilfully destroy a hare &c, contrary to
 " the statute in that case made and provided, &c."

adjudged

adjudged by me the said justice that the said G. C. be convicted of the said offence, and he is hereby by me accordingly convicted of the said offence so charged upon him in and by the said complaint, according to the form of the statute in that case made and provided. And I do order the said G. C. to be sent and the said G. C. is by me accordingly committed to the house of correction at — in and for the said county, there to remain until the next quarter sessions of the peace to be held in and for the said county, and have you him then there, together with this precept (a), unless he be sooner discharged by due course of law, according to the form of the statute in such case made and provided. In testimony whereof I the said justice to this record of conviction have put my hand and seal, at — aforesaid, in the county aforesaid, the said — day of — in the said — year of the reign of our sovereign lord, king George the third, and in the year of our Lord—

Vellum. See **Stamps.**

Venire. See **Process.**

Verdict. See **Jurors.**

Verjuice. See **Citise.**

Victuallers. See **Alshouses.**

Vinegar. See **Citise.**

Volunteer Corps. See **National Defence.**

Wages. See **Servants.**

Waif. See **Strap.**

Warrant.

IF a justice see a felony or other breach of the peace committed in his presence, he may in his own person apprehend the felon; and so he may by word command any person to apprehend him, and such command is a good warrant without writing: but if the same be done in his absence, then he must issue his warrant in writing. 2 H. H. 86.

Concerning which we will shew,

(a) If the party is committed for a less time than until the next sessions, add "there to remain for the space of six weeks, being a less time than until the next general quarter sessions of the peace to be holden in and for the said county."

- I. *For what causes it may be granted.*
- II. *What is to be done previously to granting it.*
- III. *How far it is grantable on suspicion,*
- IV. *The form of it.*
- V. *Indorsement of a warrant in another county.*

[24 G. 2. c. 55. s. 1.]

I. *For what causes it may be granted.*

There seems to be no doubt but that a warrant may be lawfully granted by any justice for treason, felony, or *præmunire*, or any other offence against the peace: also it seems clear that wherever a statute gives to any one justice a jurisdiction over any offence, or a power to require any person to do a certain thing ordained by such statute, it impliedly gives a power to every such justice to make out a warrant to bring before him any person accused of such offence, or compellable to do any thing ordained by such statute; for it cannot but be intended that a statute, giving a person jurisdiction over an offence, doth mean also to give him the power incident to all courts of compelling the party to come before him. 2 *Haw. c. 13. s. 15.*

For what cause a warrant may be granted.

But in cases where the king is no party, or where no corporal punishment is appointed, as in cases for servants wages, and the like, it seemeth that a *summons* is the more proper process, and for default of appearance the justice may proceed; and so indeed oftentimes it is directed by special statutes.

Where a summons is more proper.

Indeed as a warrant deprives a man of his liberty, a summons only ought to issue, and not a warrant, without information upon oath. 2 *Barnard. 34. 77. 101.*

II. *What is to be done previously to granting it.*

It is convenient, though not always necessary, that the party who demands the warrant be first examined on oath, touching the whole matter whereupon the warrant is demanded, and that such examination be put into writing. 1 *H. H. 582.* 2 *H. H. 111.*

Complaint to be on oath.

Or at least it is safe to bind him over to give evidence; lest afterwards when the offender shall be apprehended, or shall surrender himself, the party that procured the warrant be gone. *Dalt. c. 169.*

III. *How far it is grantable on suspicion.*

L. Hale proves at large, contrary to the opinion of L. Coke (4 *Inst. 177.*), that a justice hath power to issue a warrant to apprehend a person suspected of felony, before he is indicted; and that though the original suspicion be not in himself,

Warrant upon suspicion.

himself, but in the party that prays his warrant. 2 H. H. 107—110.

For the justices are judges of the reasonableness of the suspicion, and when they have examined the party accusing touching the reasons of his suspicion, if they find the causes of suspicion to be reasonable, it is now become the justices' suspicion as well as theirs. 2 H. H. 80.

And in another place, speaking of this opinion of L. Coke he delivers himself seemingly with a kind of warmth not usual to him: I think, says he, the law is not so, and the constant practice in all cases hath obtained against it, and it would be pernicious to the kingdom if it should be as L. Coke delivers it; for malefactors would escape unexamined and undiscovered, for a man may have a probable and strong presumption of the guilt of a person, whom yet he cannot positively swear to be guilty. 1 H. H. 579.

Mr. Hawkins likewise seems to be of the same opinion against L. Coke, but delivereth himself with his wonted caution and candour. It seems probable, he says, that the practice of justices of the peace in relation to this matter is now become a law, and that a justice may justify the granting of a warrant for the arrest of any person, upon strong grounds of suspicion, for a felony, or other misdemeanor, before any indictment hath been found against him; yet inasmuch as justices claim this power rather by connivance than any express warrant of law, and since the undue execution of it may prove so highly prejudicial to the reputation, as well as the liberty of the party, a justice cannot well be too tender in his proceedings of this kind, and seems to be punishable not only at the suit of the king, but also of the party grieved, if he grant any such warrant groundlessly and maliciously, without such a probable cause as might induce a candid and impartial man to suspect the party to be guilty. 2 How. c. 13. f. 18.

General war-
rant void.

But a general warrant, upon a complaint of a robbery, to apprehend *all persons suspected*, and to bring them before a justice, hath been ruled void; and false imprisonment lies against him that issues such a warrant. 1 H. H. 580. 2 H. H. 112.

So a general warrant to apprehend the authors, printers and publishers of a libel, without naming them, is illegal. *Money v. Leach*. 1 B. C. Rep. 555.

IV. The form of it.

Mr. Dalton says, the warrant is the better, if it bear date of the place where it is made. *Dalt.* c. 169.

— And

And L. *Haw* says, the place, though it must be alleged in pleading, need not be expressed in the warrant. 2 *H. H.* 111.

And Mr. *Hawkins* says, it is safe, but perhaps not necessary, in the body of the warrant to shew the place where it was made: yet it seems necessary to set forth the county, in the margin at least, if it be not set forth in the body. 2 *Haw.* c. 13. f. 23.

It may be directed to the sheriff, bailiff, constable, or to any indifferent person by name who is no officer; for the justice may authorize any one to be his officer, whom he pleases to make such; yet it is most advisable to direct it to the constable of the precinct wherein it is to be executed, for that no other constable, and *a fortiori*, no private person is compellable to serve it. 2 *Haw.* c. 13. f. 27. *Dalt.* c. 169. 2 *H. H.* 110.

But in the case of an act of parliament, it is said that if the act direct that a justice shall grant a warrant, and do not say to whom it shall be directed, by consequence of law it must be directed to the constable, and it cannot be directed to the sheriff, unless such power be given in the act. 2 *L. Raym.* 1192. 2 *Salk.* 381.

The warrant may be styled in divers manners; as, 1. In the name of the king; and yet the *teste* must be under the name of the justice that grants it out. Or, 2. It may be styled or made only in the name of the justice. Or, 3. It may be made without any style, and only under the *teste* of the justice, or only subscribed by him. As followeth;

In the king's majesty's name.

Westmorland. **G**EORGE the third, by the grace of God, of the united kingdom of Great Britain, and Ireland, king, defender of the faith: To our sheriff of the county of ——— to the high constable of the hundred of ——— in the same county, and to the petty constables of the town of ——— in the same county, and to all and singular our bailiffs, and ministers in the same county, as well within liberties, as without, greeting:

Farasmuch as A. I. of ——— hath come before J. P. esquire, one of our justices assigned to keep our peace within the said county, and hath, &c.

(Concluding it in the justice's name, as thus: *Witness the said J. P. at ——— the ——— day of ———.*

Note. That wheresoever the warrant is made in the king's name, there it ought to be directed to all ministers, as well within liberties as without, for the king is made a party. And so it may be done in all other warrants, especially for felony,

or for the peace and good behaviour, because it is the service of the king. *Dalt. c. 174.*

Or thus in the name of the justice himself.

Westmorland. J. P. *esquire, one of the justices of our lord the king, assigned to keep the peace within the said county; To the sheriff of the said county, to the bailiff or constable of the hundred of ——— within the said county, to the petty constables of the town of ——— within the said hundred and county. and to all other the ministers and officers of our said lord the king within the said county, and to every of them, greeting :*

Forasmuch as, &c. given under my hand and seal the ——— day of, &c. Dalt. c. 174.

Regularly, the warrant, especially if it be for the peace or good behaviour, or the like, where sureties are to be found or required, ought to contain the special cause and matter whereupon it is granted, to the intent that the party upon whom it is to be served may provide his sureties ready, and take them with him to the justice to be bound for him; but if the warrant be for treason, murder, or felony, or other capital offence, or for great conspiracies, rebellious assemblies, or the like, it hath been said that it needeth not to contain any special cause, but the warrant of the justice may be to bring the party before him, to make answer to such things or matters generally as shall be objected against him on the king's behalf. *Dalt. c. 169. 2 Haw. c. 13. f. 25. 2 H. H. 111.*

But Mr. Lambard says, every warrant made by a justice of the peace ought to comprehend the special matter upon which it proceedeth; even as all the king's writs do bear their proper cause in their mouth with them: and as for the form that is commonly used, *to answer to such things as shall be objected*, and such like, they were not fetched out of the old learned precedents, but lately brought in by such as either knew not, or cared not, what they writ. *Lamb. 87.*

The warrant ought regularly to mention the name of the party to be attached, and must not be left in general, or with blanks to be filled up by the party afterwards. *2 H. H. 114. Dalt. c. 169.*

The same rule obtains in warrants on civil actions. *Burslem v. Fern, 2 Wils. 47.; and Housin v. Barrow. 6 T. R. 122.*

The warrant may issue to bring the party before the justice who granted the warrant specially, and then the officer is bound to bring him before the same justice; but if the warrant be to bring him before any justice, then it is in the election of the officer to bring him before what justice of the county he thinks fit, and not in the election of the prisoner. *1 H. H. 582. 2 H. H. 112.*

It ought to set forth the year and day wherein it is made, that in an action brought upon an arrest by virtue of it, it may appear to have been prior to such arrest; and also, in case where the statute directeth the prosecution to be within such a time, that it may appear that the prosecution is commenced within such time limited: likewise, where a penalty is given to the poor of the parish where the offence shall be committed, or the like, it ought to specify the place where the offence was committed. 2 *Haw. c. 13. f. 22.*

Finally, it ought to be under the hand and seal of the justice who makes it out. *Ib. f. 21.*

But a warrant under the hands of the justice is sufficient without being under seal, unless particularly required by act of parliament. *Bull. N. P. 13.; and Will. Rep. 411.* See *Tit. Justices of the Peace. V.*

V. Indorsement of a warrant in another county.

By the 24 G. 2. c. 55. If any person, against whom a warrant shall be issued, shall escape, go into, reside or be in any place out of the jurisdiction of the justice granting the warrant, either before or after the issuing thereof; any justice for the county or place, where such person shall so escape or be, upon proof on oath of the hand-writing of the justice granting such warrant, shall indorse his name thereon; which shall be a sufficient authority to the person bringing such warrant, and to all other persons to whom the same was originally directed, to execute the same in such other county or place, and to carry the offender before the justice who indorsed the warrant, or some other justice or justices of that county, if the offence be bailable, and the offender be ready to give bail for his appearance at the next assizes or sessions for the county or place where the offence was committed; and such justice or justices shall take bail accordingly, and shall deliver the recognizance, together with the examination or confession of the offender and all other proceedings relating thereto, to the constable, or other person, who shall (on pain of 10*l.* to him who shall sue) deliver over the same to the clerk of assize, or clerk of the peace, where the offender is required to appear. And if the offence be not bailable, or he shall not give bail to the satisfaction of the justice before whom he is brought, the constable or other person shall carry the offender before a justice of the proper county or place where the offence was committed, there to be dealt with according to law. *f. 1.*

Oath to be made of the justice's hand-writing.

The form of which indorsement may be thus :

Westmorland. } **F**ORASMUCH as proof upon oath hath been made before me J. P. esquire, one of his majesty's justices of the peace for the said county of Westmorland, that the name A. B. is of the hand-writing of the justice of the peace within mentioned; I do hereby authorize A. C. who bringeth to me this warrant, and all other persons to whom the said warrant is directed, to execute the same within the said county of Westmorland. Given under my hand, the — day of — in the year —.

And the justice may further order (if he think fit) the party, according as he shall appearailable or notailable upon the face of the warrant, to be brought before himself, or some other justice or justices of that county, or to be carried back into the county from whence the warrant did issue.

Execution of a warrant. See Arrest.

Warrant to search for stolen goods. See Search Warrant.

Watch.

[13 Ed. 1. *f.* 2. *c.* 4. 5 Ed. 3. *c.* 14. 5 H. 4. *c.* 3. 5 An. *c.* 31. *f.* 2.]

Watch and ward.

WATCHING is properly intended of the night, and warding for the day time. *Dalt. c.* 104.

Watches are of three kinds;

By the statute of Winchester.

That which is appointed by the statute of *Winchester, c.* 4. and is enforced by the 5 H. 4. *c.* 3. which is, That from Ascension-day to Michaelmas, in every city six men shall keep watch at every gate, in every borough twelve men, every town six or four according to the number of the inhabitants, and shall watch the town continually all night, from the sun setting to the sun rising. 13 Ed. 1. *ft.* 2. *c.* 4.

This watch is to be set by the constable, and their power is this; If any stranger do pass by them, he shall be arrested until morning, and if no suspicion be found, he shall go quit; and if they find cause of suspicion, they shall forthwith deliver him to the sheriff, until he be acquitted in due manner. And if they will not obey the arrest, they shall levy hue and cry upon them.

[Inhabitants] It hath been resolved that a stranger, who is not an inhabitant, cannot hereby be compelled to keep watch. 2 *Haw. c.* 13. *f.* 4:

It seems to be agreed that every inhabitant is bound to keep watch in his turn, or to find another. 2 *Haw. c. 13. f. 4.*

But they are not compellable to watch at the will of the constable, but only when their turn cometh; which was the ancient custom at common law. *Dalt. c. 104.*

And the watching and warding ought to be by men able of body, and sufficiently weaponed. *Id.*

And therefore a woman required to watch may procure one to watch for her. *Comb. 243.*

Deliver him to the sheriff] That is, to the common goal. 2 *H. H. 96.*

But this watch only extends between *Ascension-day* and *Michaelmas*; but there is another watch that may be kept by the constable *ex officio*, which may extend to other times; as by the 5 *Ed. 3. c. 14.* for night-walkers, and persons suspicious by night or day. 2 *H. H. 97.*

By the constable.

And although a constable be not bound to any precise time for this kind of watch, nor punishable if he omit it barely for the omission, if he be ready upon occasion to do his office when required in these cases, yet it is in his power to hold such watches, as often as he pleases, and it is convenient and justifiable; and herein the watchmen are the ministers and assistants of the constable, and are under the same protection with him, and may act as he doth. *Id.*

Yea, it is holden, that every private person may, by the common law, arrest any suspicious night-walker, and detain him till he give a good account of himself. 2 *Haw. c. 13. f. 6.*

There is also another kind of watch, which is by authority of the justices of the peace, which also may be held at other times than the above statute of the 13 *Ed. 1.* appoints: and the watch thus appointed hath the same power as either of the former: and this seems to be within the power of any one justice, by the first assignment in the commission; but the safer way and more usual is, by order of sessions. *Lamb. 186. 2 H. H. 97. Dalt. c. 104.*

By the justices.

If a watchman take any one for suspicion of felony, he may inquire of his good name and fame, and if he find him to be of good name and fame, he may let him go, without being guilty of an escape. *Dalt. c. 159.*

Persons taken by watchmen.

And if a person will not obey the arrest of the watchmen, they may levy hue and cry upon him, that he may be taken; or else they may justify to beat him, for that he resisteth the peace and justice of the realm; and may also set him in the stocks for the same until the morning. *Dalt. c. 104.*

And the watchmen may deliver such persons to the constable, or may convey them to a justice, to be examined, and

Indemnity of
watchmen.

to be bound over or committed, until they be acquitted in manner. *B.*

A watchman hath a double protection of the law: 1. As an assistant to the constable, when the constable is present, or in the watch; for so every man, who is assisting to the constable in the execution of his office, hath the same protection that the law gives to the constable. 2. Purely as a watchman set by order of law; and the law takes notice of his authority *sub eo nomine*; and therefore killing of a watchman in execution of his office is murder. 2 *H. H.* 98. 3 *Inst.* 52. 9 *Co.* 66.

And if a watchman be killed in endeavouring to apprehend a burglar, his executors shall be entitled to 40*l.* reward. 5 *An. c.* 31. *s.* 2.

Punishment
for not watch-
ing.

If any person refuse to watch in his turn at the commandment of the constable, the latter may present the default at the assizes or sessions, or may complain thereof to any justice of the peace, who may bind the offender to the good behaviour, and so over to the next sessions. *Dalt. c.* 104. And he may be indicted for the refusal. 2 *Haw. c.* 13. *s.* 4.

But here it is to be noted, that in *Cro. El.* 204. which Mr. Dalton cites for his authority in this matter, it is not said that the justice may bind him to the good behaviour, but only thus,—that he may inflict punishment upon the refuser.

Warrant for the keeping of watch.

Westmorland. { To the constable of the hundred of _____
 { in the said county.

AT a general quarter sessions of the peace holden at _____ in and for the said county before us _____ esquires, justices of our lord the king, assigned to keep the peace within the said county, and also to hear and determine divers felonies, trespasses, and other misdemeanors in the said county committed, you are hereby required forthwith to issue your warrants to the several petty constables within your said hundred, that they do cause watch to be kept by night, and ward by day, with able men, within and throughout their respective constablewicks, from the _____ day of _____ now next ensuing, unto the _____ day of _____ then next following; and that they do apprehend or cause to be apprehended all rogues, vagabonds, and other wandering idle and disorderly persons, and carry them before some of his majesty's justices of the peace in and for the said county, to be examined and further dealt withal according to law. Given under our hands and seals, the day and year first above written.

Commitment

Commitment of a person apprehended by the watch.

Westmorland. { To the constable of ——— and to the
keeper of the house of correction
at ———

WHEREAS A. O. was yesterday in the night taken by the watch set by the constable of ——— wandering abroad, and lodging in barns, out-houses, or in the open air, and is this day brought before me J. P. esquire, one of the justices of our lord the king assigned to keep the peace within the said county, and doth not now give a good account of himself before me; These are to require you the said constable of ——— to convey the said A. O. to the said house of correction at ——— aforesaid, and to deliver him to the keeper thereof, together with this warrant. And I do hereby require you the said keeper of the house of correction aforesaid to receive the said A. O. into your custody in the said house of correction, and him there safely to keep until the next general quarter sessions of the peace to be holden in and for the said county; and have you him then there, together with this precept. Given under my hand and seal, at ——— in the said county, the ——— day of ——— in the ——— year of the reign of ———.

Indictment for not watching.

THE jurors of our lord the king upon their oath present that A. O. of ——— in the said county, yeoman, on the ——— day of ——— in the ——— year of the reign of ——— and long before and always after unto the day of the taking this inquisition, was and yet is an inhabitant of the town of ——— aforesaid, in the county aforesaid; and that the said A. O. then and there, to wit on the said ——— day of ——— in the year aforesaid, at ——— aforesaid, in the county aforesaid, was duly summoned in his turn to watch with the constable of ——— aforesaid, in the night of the same day; nevertheless the said A. O. his duty in that behalf not regarding did not watch in the said night of the same day in the year aforesaid, nor in any part of the said night, with the said constable at ——— aforesaid in the county aforesaid, but did then and there utterly refuse to do, and wilfully and obstinately therein did make default; in contempt of our said lord the king, and of his laws, and against the peace of our said lord the king, his crown and dignity.

Watchmaking. See Servants.

Weights and Measures.

THE particular weights and measures of different sorts of goods may be seen under their respective titles ; what is treated of here, is touching weights and measures in general.

I. Of the different kinds of weights and measures 760

[9 H. 3. c. 25. — 14 Ed. 3. st. 1. c. 12. — 27 Ed. 3. c. 10. — 31 Ed. 3. st. 1. c. 2. — 13 R. 2. c. 9. — 15 R. 2. c. 4. — 8 H. 6. c. 5. — 11 H. 7. c. 4. — 12 H. 7. c. 5. — and 13 & 14 W. c. 5.]

II. Standard of weights and measures to be kept in cities and towns

761

[8 H. 6. c. 5. — 11 H. 7. c. 4. — 16 C. c. 19. f. 2. 4, 5. — 22 C. 2. c. 8. f. 2, 3, 4. 6. — 22 & 23 C. 2. c. 12. f. 2. 4.]

III. Proper persons to be appointed, to examine weights and balances

764

[35 G. 3. c. 102. f. 2. — 8. — 37 G. 3. c. 143.]

I. Of the different kinds of weights and measures.

Divers weights.

Notwithstanding the many statutes, 9 Hen. 3. c. 25. ; 14 Edw. 3. st. 1. c. 12. ; 27 Edw. 3. c. 10. ; 31 Edw. 3. st. 1. c. 2. ; 13 Ric. 2. c. 9. ; 15 Ric. 2. c. 4. ; 8 Hen. 6. c. 5. ; 11 Hen. 7. c. 4. ; 12 Hen. 7. c. 5. which have enacted that there shall be but one weight and one measure throughout the realm, there always have been and still are two kinds of weights used in England, and both warrantable ; the one by law, and the other by custom ; but they are for several sorts of wares or commodities ; for there is *troy weight* and *avordupois*. Dalt. c. 112.

Troy weight.

Troy weight is by law ; and thereby are weighed silk, gold, silver, pearl and precious stones. And this hath to the pound twelve ounces. *lb.*

Avordupois weight.

Avordupois (which, in French, is as much as to say, to have full weight,) is by custom yet confirmed by statute 13 & 14 Car. 2. c. 26. ; and thereby are weighed all kinds of grocery wares, drugs, butter, cheese, flesh, wax, pitch, tar, tallow, wool, hemp, flax, iron, steel, lead, and all other commodities which bear the name of gabel, and whereof issueth a refuse or waste ; (and also bread, by the 31 G. 2. c. 29.) And this hath to the pound 16 ounces ; and 12 pounds over are allowed to every hundred. *lb.*

By

By 12 H. 7. c. 5. Every bushel shall contain eight gallons of wheat, and every gallon eight pounds *trov*, and every pound 12 ounces; on the penalty of 2*ol* upon every city, borough, town, or place, having the keeping of common measures, that shall keep any other bushel or gallon.

Winchester bushel.

And by 13 & 14 W. 3. c. 5. A legal *Winchester* bushel, according to the standard in the *Exchequer*, shall be round, with a plain bottom eighteen and a half inches wide throughout and eight inches deep.

And though measures in point of fact differ in different places, and Mr. *Dalton* (c. 112.) thought that in these cases the custom of the place was to be observed, the law only recognizes the legal measure. *Hockin v. Cooke*, 4 T. R. 314.; *The master, &c. of St. Cross v. Lord Howard de Walden*, 6 T. R. 338; and *R. v. Major* and *R. v. Arnold* (under title *Corn*; under which title see also the statutes relating to the buying and selling of corn.)

Divers measures.

So also in the case of *Noble v. Durrell*. E. 29 G. 3. it was determined that a custom in a particular market town, that butter should weigh 18 ounces to the pound was bad. —But L. *Kenyon* Ch. J. said, that he did not mean, in deciding that question, that a custom to sell butter in *lumps* of any number of ounces was not good. And *Buller* J. said, that this question did not interfere with the question, Whether to sell butter in lumps of any particular weight, is good or not? That he had not seen any act which required persons not to sell more or less than a pound; but the question there is, When a person is selling under the specific denomination of a *pound*, shall he be compellable to sell more than a pound? 3 T. R. 271.

A custom, in a particular place, to sell 18 ounces to the pound, is bad.

II. *Standard of weights and measures to be kept in cities and towns.*

By different statutes (14 Edw. 3. st. 1. c. 12.; 31 Edw. 3. st. 1. c. 2.; 12 Hen. 7. c. 5.; 37 G. 3. c. 30.) directions are given for sending measures according to the standard in the *Exchequer* into the different parts of the kingdom.

Standard to be kept in cities and towns, at which all may weigh.

By the 8 H. 6. c. 5. In every city, borough, and town, a common balance shall be, with common weights sealed, and according to the standard of the exchequer, upon the common cost of such city, borough or town, in the keeping of the mayor or constable; on pain of 1*ol*. for such city making default, borough 5*l*., and town where a constable is, 4*ol*.

At which balance all the inhabitants may freely weigh, without any thing paying; taking nevertheless of foreigners for every draught within the weight of 4*olb*. a farthing, and for

for every draught betwixt 40lb. and 160lb. a halfpenny, and for every draught betwixt 100lb. and 1000lb. a penny, at the most.

And justices of the peace, mayors, bailiffs, and stewards of franchises may inquire of offenders against this ordinance, and do execution of them that be found faulty by inquests, or by their own examination.

Measures to be sealed.

By the 22 & 23 C. 2. c. 12. The clerk of the market, and where there is none, the mayor or head officer, or other person having benefit of the market, shall cause to be sealed all measures duly gauged, brought to them for that purpose.

f. 4. And by 22 C. 2. c. 8. If any mayor, lord of the liberty, or other person authorized to mark or seal measures, shall neglect or refuse, being required, to seal or mark any bushel, half bushel, or peck, duly gauged, he shall forfeit for the first offence 5*l.* and for every other offence 10*l.* on conviction by presentment or indictment at the county sessions; half to the prosecutor, and half to the poor; to be levied by distress; and for default of distress, to be imprisoned by warrant of the justices at such sessions till payment be made.

f. 3. 4.

Fee for sealing.

And no person shall take, for the sealing and marking of a bushel, more than 1*d.*; for an half bushel or peck more than one halfpenny; for a gallon, pottle, quart, pint, or half-pint, more than one farthing; and if any person shall take more, he shall forfeit 5*l.* to the poor, on conviction before one justice, by the oath of one witness; to be levied by the churchwardens or overseers, by distress, in default of distress, imprisonment till paid. 22 C. 2. c. 8. f. 4. 16 C. 1. c. 19. f. 4.

Weights and measures to be examined, in market towns.

And the mayors and other head officers in market towns shall, twice a-year or oftener, cause all weights and measures within the same to be brought before them, and examined; and such as they find defective, to be broken and burnt; and the offender shall forfeit to the mayor or other officer, for the first time, 6*s.* 8*d.*; for the second time 13*s.* 4*d.*; and the third time 20*s.* and be set on the pillory.

Power of the justices.

Two justices (1 *Q.*) may hear and determine the defaults of the said mayors or other head officers in that behalf, and also of all buyers and sellers doing contrary hereunto, as well by examination as by inquiry, and set fines and amerciaments, and make process thereupon, as if they were indicted before them for breaking the king's peace. 11 H. 7. c. 4.

Constable to search.

Also the constable shall search, if any persons use any other measure than according to the standard, or shall strike in any other manner, than even by the wood or brim; or shall sell or buy by a measure unsealed; and if he find any unsealed

sealed measure, he shall break the same, and shall present the offenders at the next private or quarterly sessions. 22 C. 2. c. 8. §. 6.

And whoever shall sell by any other weight, measure, or yard, not according to the standard, or keep any such, whereby any thing is bought or sold, shall forfeit 5*s.* on conviction before one justice, mayor, or other head officer, on oath of one witness; to be levied by the churchwardens and overseers, or some or one of them, to the use of the poor, by distress. In default of distress, imprisonment till paid. 16 C. c. 19. §. 2. But water-measure (*viz* 5 pecks to the bushel, *Dalt. c. 112.*) in sea-port towns, shall continue as usual, §. 7. — Except in the measuring of corn or grain, ground or unground, and salt. 22 C. 2. c. 8. §. 2.

Penalty for using or keeping any other.

If any person shall sell any sort of corn or grain, ground or unground, or any kind of salt, usually sold by the bushel, by any other bushel or measure than agreeable to the standard marked in his majesty's exchequer, commonly called the *Winchester* measure, containing eight gallons to the bushel, stricken even by the brim by the seller, and sealed, he shall forfeit 40*s.* on conviction before one justice, mayor, or other head officer, on oath of one witness, to be levied by the churchwardens and overseers, or some one of them, to the use of the poor, by distress. In default of distress, imprisonment till paid. 22 C. 2. c. 8. §. 2. And by 22 & 23 C. 2. c. 12. Whoever shall sell or buy any corn, ground or unground, or salt, in any other measure, and that without shaking the bushel by the buyer, shall forfeit beside, all the corn grain, or salt, to the person or persons complaining. §. 2. (a)

Penalty for selling corn or salt by any but the *Winchester* measure.

If any mayor, or other head officer, shall suffer any other measure to be used than according to the standard, and sealed, he shall forfeit 5*l.*, half to the prosecutor, and half to the poor, on conviction by presentment or indictment at the county sessions, by distress; for default of distress, to be imprisoned by warrant of the justices till paid. *Id.* §. 3.

And generally, by the 16 C. c. 19. If any mayor or other officer, or any lords of liberties or their agents, shall receive any fines or fees other than are allowed by statute or custom; or shall take any fee for the marking, signing, or examination of any weights or measures which have been formerly marked or sealed; or shall impose any fine without a due and legal trial of the offence; or shall otherwise misdemean himself in the execution of his office; he shall forfeit to the poor, for the first offence 5*l.*, for the second 10*l.*, and for the third

General penalty for neglect of duty.

(a) See more on this head, title **Corn**.

and for every other offence 20*l.*, on conviction before one justice, on the oath of one witness; to be levied by the churchwardens or overseers by distress: for want of distress, imprisonment till paid. *f.* 5.

But after all, notwithstanding the punishments aforesaid appointed by statute, for selling by false weights and measures, yet the same is also an offence at the common law, and consequently may be punished by indictment, fine, and imprisonment.

III. *Proper persons to be appointed to examine weights and balances.*

Petty sessions.
to appoint persons to examine weights, &c.

By 35 G. 3. c. 102. The justices, at every quarter sessions, were to appoint persons to examine weights and balances, and to seize and destroy those that were false or unequal, and a penalty was imposed on the person in whose possession the same were found; which part of the said act is by 37 G. 3. c. 143. repealed. And it is enacted that the justices at their respective *petty sessions* within their divisions districts and places may appoint one or more person or persons, who shall have power to examine the weights and balances within such division, district, or place. 37 G. 3. c. 143. *f.* 1.

Which persons
are to examine
shops, &c.

The person so appointed (having been first sworn duly and faithfully to execute such office) shall, as often as the said justices shall direct, in the day time, enter into the shop, mill, house, out-house, or other premises near thereto, and into the stall or standing place of every person who shall sell or retail by weight any wares, provisions, goods and chattels wheresoever, and search for, view, and examine all the weights and balances therein, and seize those that are not according to the standard, or any false or unequal balance there found, and shall detain the same, to be produced at such petty sessions upon the hearing of the information hereafter mentioned; and the person in whose custody the same shall be found shall, upon conviction (A) in such petty sessions, upon view, confession, or oath of one witness, forfeit not exceeding 20*s.* nor less than 5*s.* as such sessions shall think fit, together with the costs, which may be levied by distress, by warrant of two justices, who shall cause such false weights and balances to be broken and rendered useless, and the materials thereof to be sold, and the money arising from such sale, together with the amount of such forfeitures, shall be paid to the treasurer of the county, to be applied in carrying those acts into execution; and the residue (if any) shall go to the county stock: and such justices shall sign a return of the sums so raised, and cause the

Penalty for
having false
weights, &c.

False weights,
&c. to be broken.

A return to be
made of money
raised.

same

same to be transmitted to the clerk of the peace at every quarter sessions. 35 G. 3. c. 102. *f.* 2. 37 G. 3. c. 143. *f.* 2, 3.

And the justices shall purchase, for the use of their respective counties, out of the county rate, proper weights, according to the standard in the exchequer, which shall be deposited for the inspection of all persons either with the respective clerks of the peace, or with some proper person in such convenient place within each county as the justices shall direct, and shall be produced by the person in whose custody they are lodged (upon reasonable notice) at such time and place as any person shall, by writing under his hand, require and appoint, on paying the reasonable charges of producing the same. 35 G. 3. c. 102. *f.* 7.

Standard weights to be procured.

And the sessions may allow to the inspectors so appointed, a reasonable recompense for their trouble, to be paid out of the county rate, *f.* 4.

But if the majority of the inhabitants of any parish, township, or place, be desirous that any person shall be specially appointed to examine the weights and balances within such place, and shall (at a vestry to be holden for that purpose) nominate one or more substantial householder or householders, to be approved at a special sessions for the division, such person, being so approved, shall have the same power as any person appointed for the district. 37 G. 3. c. 143. *f.* 4.

Vestry may nominate examiners, for the approbation of the justices

Provided also, that no such appointment shall be made until the inhabitants have procured standard weights, to be deposited with the person so appointed, for the use of such place; and such petty sessions may order the charges of procuring such weights, and the recompense to be allowed to the person so appointed for his trouble, to be paid out of the poor rate of such place. *f.* 5.

But standard weights must be first procured.

And if any person shall wilfully obstruct, hinder, resist or oppose any person duly authorized to examine such weights and balances, in the execution of his office; or if any such seller or retailer shall refuse to produce his weights and balances in order to be examined, he shall, on conviction, on oath, before one justice, forfeit not exceeding 40s. nor less than 5s. as such justice shall adjudge, to be levied and applied as aforesaid. 35 G. 3. c. 102. *f.* 3.

Obstructing inspectors, or refusing to produce weights, &c.

Provided, that persons punished under this act shall not be otherwise punished by any other law. *Ib.* *f.* 5.

Offenders to be punished one way only, Courts leet, &c. excepted.

Provided also, that nothing herein shall extend to lessen the authority of any person, bodies politic or corporate, or persons appointed at any court leet for examining weights and balances within their respective jurisdictions. *Ib.* *f.* 6.

And all the clauses, powers, and provisions contained in

Powers of 35 G. 3. c. 102, (except altered)

the

Husband's
liability, for his
wife's debts.

A feme covert cannot contract and be sued as a feme sole, even though she be living apart from her husband, having a separate maintenance to her by deed. For it may be asked, how it can be in the power of any persons, by their private agreement, to alter the character and condition which by law result from the state of marriage, while it subsists; and from thence to infer rights of action and legal responsibilities, and consequences following from such alteration of character and condition? or how any power, short of that of the legislature, can change that which by the common law of the land is established as the course of judicial proceedings? The court said they could find no authority in the books to shew that a man and his wife can, by agreement between themselves, change their legal capacities and characters; or that a woman may be sued as a feme sole while the relation of marriage subsists, and she and her husband are living in this kingdom. *Marshall v. Rutton*. 8 T. R. 545.

But where the husband of a married woman, a foreigner, went abroad, but declared his intention to return in a short time, but had not so done, the wife was held liable to debts contracted in his absence. *L. Kenyon* said the case came within the principle of the old common law, where the husband had abjured the realm: if he had been sent for some time, and had then returned, and paid bills contracted by his wife in his absence, and again left the kingdom, his lordship should have held the wife not liable; but here, was a desertion of the kingdom, and an absence of some (about 4) years. *Watford v. De Pienne*, 2 Esp. R. 554. See also *Frank v. De Pienne*, ib. 558.; *Watford v. De Pienne*, ib. 554.; and *De Gaillon. v. L'Aigle*. 1 Bos. & Pull. 357.

Wife eloping.

If a woman elope from her husband, withdraw herself from his protection and live in adultery, he is not by law liable to answer for her necessities; but the woman is in such case liable to her own contracts, although she has no separate maintenance. And this was holden even where it appeared that the wife had been turned out of doors by her husband and afterwards committed adultery, but before the cause of action accrued had ceased to live in such state, and had offered to return; for the court held that in consequence of the woman having once gone off with an adulterer the husband was discharged for ever. 1 Bos. & Pul. 338. *Govier v. Hancock*, 6 T. R. 603.

And if a wife willingly leave her husband, and go away, and continue with her adulterer, she shall be barred for ever of action to demand her dower. 13 Ed. 1. st. 1. c. 34.

M. 12 G. Morris v. Martin. Action for meat and other things provided for the defendant's wife. The defendant proved

proved she went away from him with an adulterer. *Raymond Ch. J.* held that the husband should not be charged for necessaries for her, though the plaintiff who provided for her had no notice; and he said *Ch. J. Holt* always ruled it so. 1 *Str.* 647.

T. 12 G. Mainwaring v. Sands. In an action against the husband for a laced head sold to the wife, it was proved that the wife lived from her husband in adultery, and that she told the plaintiff that she had a husband, but that signified nothing, for she would pay him herself. *Raymond Ch. J.* held the defendant not chargeable, and said he should have ruled it so, if there had been no actual notice, which only strengthened the case. 2 *Str.* 705.

T. 4 G. 2. Child v. Hardyman. Action for linen sold to the defendant's wife. Upon *non assumpsit*, the delivery of the goods was proved. And the defendant proved that she had lived in a very lewd manner; one Mr. *Nott* frequently coming to her at her husband's house, and they were locked up together in a bed-chamber; and other indecencies passed between them. It was also proved, that she several times went to the house of this *Nott*, a gentleman in *Wiltshire*, who lived within three miles of the defendant's house. It did not appear farther than that he disliked her going and staying at Mr. *Nott*. But under these circumstances, the husband and wife continued to live together. Afterwards she went away from him, and went to *Marlborough*, where she resided for some time; but after leaving her husband's house it did not appear that she ever saw Mr. *Nott*, or lived in a lewd manner. After some time, she sent *Lucas* an attorney to her husband, to desire that he would receive her again; the husband told him, that if she came again she should never sit at the upper end of his table, nor have the government of the children, but should live in a garret. Then *Lucas* proposed to him, to make her an allowance, and proposed about 80 or 100*l.* a year, he being worth about 5 or 60*l.* a year. But that was not complied with; and afterwards she came to *London*, and bought the linen, to the amount of 53*l.* By *Raymond Ch. J.* If a woman elope from her husband, though she do not go away with an adulterer, or in any adulterous manner, the tradesman trusts her at his peril, and the husband is not bound. And this hath been so adjudged in two or three cases. Indeed if he refuse to receive her again, from that time it may be an answer to the elopement. In this case he doth not absolutely refuse to receive her again; but that she should neither sit at his table, nor have any government of the children, but should be kept in a garret; and she deserved no better usage. And the plaintiff was nonsuited. 2 *Str.* 875.

M. 18 G. 2. Bolton v. Prentice. In *assumpsit* for goods sold and delivered to the defendant's wife, the case appeared

Husband leaving his wife.

to be, that the defendant and his wife had formerly lodged at the plaintiff's house, and the plaintiff furnished her with goods; and the defendant finding the plaintiff had helped her to pawn her watch, and suspecting he confederated with her, left the lodgings, after paying the plaintiff his bill, and forbidding him ever trusting her again. After this the defendant and his wife cohabited together for a year; when, without any cause appearing, he left her, locked up her clothes, and upon her finding him out refused to admit her, and struck her and declared he would not maintain her or pay any body that did. In this distress, she borrowed clothes of her friends, and applied to the plaintiff, who furnished her with necessaries according to the defendant's degree; which the defendant refusing to pay for, this action was brought; and upon trial the jury found for the plaintiff. Upon motion for a new trial, the court held the verdict was right; for whilst they were at the plaintiff's, there was a particular reason for the particular prohibition; yet the causeless turning her away destitute afterwards gave her the general credit again; and if a husband should be allowed under the notion of a particular prohibition, to destroy her obtaining credit in one place, he may in the same manner prevent it with all people she is acquainted with. He appears to be a wrong doer, and therefore has no right to prohibit any body. They distinguished this case from the case of *Manby v. Scott*. 1 Sid. 109.; for there the wife was guilty of the first wrong in eloping. 2 Str. 1214.

Carrying her
away with the
husband's
goods.

Of women carried away (*viz.* violently, or against their wills, 2 *Inst.* 435.) with the goods of their husbands, the king shall have the suit for the goods so taken away. 13 *Ed.* 1. *f.* 1. c. 34. That is, it shall be felony. And so, if any man take another man's wife, with her husband's goods, against the husband's will, this is also felony. *Dalt.* c. 157.

Wife taking the
husband's
goods.

But a wife herself cannot feloniously take her husband's goods; and though she take her husband's goods, and deliver them to a stranger, yet it is no felony in the stranger. *H. Pl.* 65. 1 *Haw.* c. 33. *f.* 19.

But she may be guilty of felony in taking her husband's goods from the possession of another party.

Guilty of for-
cible entry.

A married woman by her own act (but not in respect of what is done by others at her command, because all such commands of her's are void) may commit a forcible entry or detainer; and upon the justice's view of the force, she shall be imprisoned therefore, and she may be fined in such case: but such fine set upon the wife shall not be levied upon the husband; for the husband shall never be charged for the act or default of his wife, but when he is made a party to the action, and judgment given against him and his wife. *Dalt.* c. 126. 9 *Co.* 72. 11 *Co.* 61.

Likewise

Likewise if he shall commit any riot, or do any trespass or other wrong she is punishable for it; and for a trespass done by the wife, or for a scandal published by her, the action lieth against both the husband and wife, and there the husband is chargeable to the damages or fine, because he is party to the action and judgment. But if a wife, without her husband, be indicted of a trespass, riot, or any other wrong, there the wife shall answer, and be party to the judgment only; and in such case, the fine set upon the wife shall not be levied upon the husband; yet after the husband's death such damages or fines shall then be levied of the wife herself; and as for imprisonment or other corporal pain, it shall be inflicted upon the wife only, and not upon the husband for his wife's act or default. *Dalt. c. 139.*

Guilty of slander, trespass, or assault.

T. 15 G. 2. Pitt v. Meller and his wife. In trover against both, and judgment and execution against both, the wife petitioned to be discharged out of custody; which the court refused, unless it could be shewn, that there was fraud and collusion between the plaintiff and the husband to keep her there. *2 Str. 1167.*

M. 19 G. 2. Finch and his wife *v. Duddin* and his wife. In an action for a battery of the plaintiff's wife by the defendant's wife, there was judgment for the plaintiffs, and the wife of the defendant was only taken in execution. She moved to be discharged, but upon affidavits of endeavours to take the husband, and it not appearing there was any design to screen him, the court refused it, on the authority of *Pitt. v. Meller. 2 Str. 1237.*

M. 20 G. 2. Longstaff v. Rain and his wife. On an action of assault and battery done by the defendant's wife there was a verdict and judgment for the plaintiff, and both the husband and wife were taken in execution. It was moved to discharge the wife out of custody. But by the court, this matter has been determined, in the case of *Finch v. Duddin*, that the wife is liable to be taken. And the court refused to discharge her. *1 Wilson, 149.*

M. 10 G. Tarrant v. Mawr. The wife libelled in the spiritual court for calling her whore, and there being proceedings likewise for defamation against her by the other, the two husbands entered into an agreement to stay proceedings on both sides: and upon one of the wives going on, the husband moved for a prohibition, but it was denied; for by the court, the suit is by the wife, to recover her fame, and it is not in the power of the husband to restrain her. *1 Str. 576.*

If a woman receive stolen goods into her house, knowing them so to be; or lock them up in her chest or chamber, her husband not knowing thereof; if her husband, so soon as he knoweth thereof do forthwith forsake his house, and

Receiving stolen goods.

her company, and make his abode elsewhere, he shall not be charged for her offence; whereas otherwise, the law will impute the fault to him, and not to her. *Dalt. c. 157.*

Guilty of conspiracy with her husband.

A prosecution for conspiracy is not maintainable against a husband and wife only; because they are esteemed but as one person in law, and are presumed to have but one will. *1 Haw. c. 72. §. 8.*

Woman servant marrying.

If a woman who is a servant shall marry, yet she must serve out her time, and the husband cannot take her out of her master's service. *Dalt. c. 58.*

Wife hiring to be a servant.

Also if a married man and his wife do bind themselves to serve, they shall be compelled to serve according to their covenant or agreement. *Dalt. c. 58.*

Killing her husband, petty treason.

If the wife maliciously kill her husband, it is petty treason; but if the husband maliciously kill his wife, it is but murder. *Dalt. c. 142.*

Evidence for or against her husband.

Husband and wife cannot be witnesses for one another; nor regularly against one another. *2 Haw. c. 46. §. 16.*

May demand surety for the peace against her husband.

But a wife may demand surety of the peace against her husband, threatening to beat her outrageously, and a husband also may have it against his wife. *1 Haw. c. 60. §. 4.*

And in other criminal cases the wife may be a witness against her husband, where she is the party grieved; but not in civil cases. *Dalt. c. 164.*

T. 31 G. 2. Rex. v. Earl Ferrers. An *habeas corpus* was issued, commanding *Laurence earl Ferrers* to bring up the body of his countess, that she might receive the protection of the court against the said earl, and swear the peace against him if she should think proper. The earl disobeying the writ of *habeas corpus*, an attachment was granted against him. Upon which he permitted her to come into court, and she exhibited articles of the peace against him. And the earl was obliged to enter into recognizance accordingly, himself in 5000*l.* and two sureties in 2500*l.* each. *1 Bur. 631.*

And a recognizance to the same effect has been entered into by a peer of the realm, within a recent date.

Husband and wife agreeing to live separate.

E. 31 G. 2. Rex. v. Mary Mead. An *habeas corpus* having issued at the instance of *John Wilkes*, esquire, to bring up the body of *Mary Wilkes*, wife of the said *John Wilkes*, and daughter of the said *Mary Mead*; Mrs. Mead now brought her into court. The substance of the return was, that her husband (having used her very ill) did, in consideration of a great sum which she gave him out of her separate estate, consent to her living alone, executed articles of separation, and covenanted (under a large penalty) never to disturb her or any person with whom she should live; that she lived with her mother, at her own earnest desire; and that the writ of *habeas corpus* was taken out with a view of seizing

seizing her by force, or some other bad purpose. The court held this to be a formal renunciation by the husband of his marital right to seize her or force her back to live with him. And they said that any attempt of the husband to seize her by force and violence would be a breach of the peace. They also declared, that any attempt made by the husband to molest her in her present return from *Westminster-hall* would be a contempt of the court; and they told the lady she was at full liberty to go where and to whom she pleased.

1 *Bur.* 542.

A wife cannot be bound herself by recognizance, but her sureties only. *Dalt. c. 117.* Cannot be bound by recognizance.

She may surrender a lease in the court of chancery or exchequer in order to renew the same. 29 *G. 2. c. 31.* May make a surrender.

H. 1735. In the chancery. *Heard v. Stamford.* The husband, as such, is not chargeable in a court of equity, any more than at law, with the debts of his wife after her decease; no, not even though he had a large fortune with her; as on the other hand he is, during the coverture, liable to all her debts, although he got nothing with her. *Caf. temp. Talb. 173. 3. P. Wms. 409.* Husband not liable to the wife's debts after her death.

Windows, duty on. See *Taxes, (Assessed.)*

Wine. See *Crise.*

Witchcraft.

[9 *G. 2. c. 5.*]

BY the 9 *G. 2. c. 5.* No prosecution, suit, or proceeding, shall be commenced or carried on against any person for witchcraft, sorcery, enchantment, or conjuration, or for charging another with any such offence, in any court whatsoever. *f. 3.* Witchcraft abolished.

But if any person shall pretend to exercise or use any kind of witchcraft, sorcery, enchantment, or conjuration; or undertake to tell fortunes; or pretend, from his skill or knowledge in any occult or crafty science, to discover where or in what manner any goods or chattels, supposed to have been stolen or lost, may be found; every person so offending, being convicted on indictment or information, shall suffer imprisonment for a year, without bail or mainprize, and once in every quarter of the said year, in some market town of the proper county, upon the market day there, stand openly on the pillory for one hour, and also shall (if the court by which such judgment shall be given shall think fit) be obliged

Pretending to witchcraft.

to give sureties for his good behaviour in such sum, and for such time, as the said court shall judge proper, according to the circumstances of the offence, and in such case shall be further imprisoned until such sureties shall be given.

f. 4.

Witness. See Evidence.

Witnesses summoning. See Summons.

Witnesses.

WHERE pecuniary penalties or parts thereof are given to the poor, the inhabitant of any place may be a competent witness to prove an offence, though the place may be benefited by the conviction of the offender, unless the penalty exceed 20l. 27 G. 3. c. 29. See Evidence.

Women.

[3 Ed. 1. c. 13. — 20 H. 6. c. 9. — 31 H. 6. c. 9. — 3 H. 7. c. 2. — 4 & 5 P. & M. c. 8. f. 3. — 18 El. c. 7. — 3 W. c. 9. — 4 & 5 W. c. 24. f. 13. — 26 G. 2. c. 23. — 30 G. 3. c. 38. f. 1, 2.]

Concerning women considered as *wives*, or *femes covert*; see title *Wife*.

Concerning women having two husbands, or men two wives; see title *Polygamy*.

Concerning the ravishment of women; see title *Rapt*.

For clandestine marriages, and counterfeiting marriage licences and registers; see title *Marriage*.

Carnally knowing a female child under ten.

IF any person shall unlawfully and carnally know and abuse any woman child under the age of ten years, he shall be guilty of felony without benefit of clergy. 18 El. c. 7. And in this case the consent of the child is immaterial.

Taking a woman by force.

None shall take by force any maiden within age (that is, the age of 12 years, being the age of consent to marriage, 2 Inst. 182.) by her own consent nor without; nor any wife or maiden of full age, nor any other woman against her will; on pain of imprisonment for two years, and after, fine at the king's will. 3 Ed. 1. c. 13.

Forcing her to become bound.

If any person take by force, or otherwise, any woman sole, having any substance of lands, tenements, or moveable goods, and inforce her before she be set at liberty to bind herself

self to him by statute or obligation; such bond shall be void.
31 *H. 6. c. 9.*

Whereas women, as well maidens as widows and wives, having substances, some in goods moveable, and some in lands and tenements, and some being heirs apparent unto their ancestors, for the lucre of such substances are sometimes taken by misdoers, contrary to their will, and after married to such misdoers, or to other by their assent, or defiled, — it is enacted that what person that taketh any woman so against her will unlawfully, that is to say, maid, widow, or wife, that such taking, procuring, and abetting the same, and also receiving wittingly the same woman so taken against her will, and knowing the same, be felony; and that such misdoers, takers, and procurators to the same and receivers knowing the said offence shall be adjudged as principal felons 3 *H. 7. c. 2.* And by the 39 *El. c. 9.* benefit of clergy is taken away from the principals, procurers, and accessories before.

The offence commonly called *stealing an heiress*.

Upon the face of which said statute of the 3 *H. 7.* these things are required to make the offence felony; 1. That the maid, wife, or widow, have lands, or tenements, or moveable goods, or be an heir apparent. 2. That she be taken away against her will. 3. That the taking was for lucre. And 4. That she be married to the misdoer, or to some other by his consent; or be defiled (that is, carnally known). For if these concur not, and be so laid in the indictment, the misdoer is not a felon within the statute, but otherwise to be punished. 3. *Inst. 61. 1 How. c. 42.*

The said act makes not only the takers, but the procurers, and abettors of the felony, and receivers of the woman (a) wittingly, knowing the same, to be all principal felons; the like whereof lord *Coke* says he hath not found in any other statute that he remembers. But by the construction of the common law, they that receive the misdoers, and not the woman are accessories only. 3 *Inst. 61, 62.*

But those who are only privy to the marriage, but no way parties to the forcible-taking away, or consenting thereto; are not within the statute. 1 *Haw. c. 42. §. 9.* and *Cre. Car. 489. 493.*

It is no manner of excuse, that the woman at first was taken away with her own consent; because if she afterwards refuse to continue with the offender, and be forced against her will, she may from that time as properly be said to be taken against her will, as if she had never given any con-

(a) This point, respecting the receivers of the woman, seems questionable. *Vid. 1 East's P. C. c. 11. §. 2.*

sent at all; for till the force was put upon her, she was in her own power. *Ib.* f. 6.

Also, it is not material whether a woman so taken contrary to her will be at last married or defiled with her own consent, or not; if she were under the force at the time. *Ib.* f. 7.

In *Fulwood's* case, *M.* 13. C. it was resolved that the woman taken away and married may be sworn and give evidence against the offender, who so took and married her, though she be his wife *de facto*. 1 *H. H.* 661. *Cra. Car.* 448.

Taking a woman under 16.

If any person above the age of 14 years shall unlawfully take or convey or cause to be taken or conveyed any maid or woman child unmarried, being within the age of 16 years, out of the possession and against the will of her father, or mother, or guardian; he shall suffer two years imprisonment, or pay such fine as shall be assessed by the court, half to the king, and half to the parties grieved. 4 & 5 P. & M. c. 8. f. 3.

Natural daughter.

Whether the child be legitimate or not, makes no difference on this section of the act.

H. 15 G. 2. *R. v. Cornforth* and others. The court granted an information against the defendants, for taking away a natural daughter under 16, under the care of her putative father; being of opinion that it was within this statute. 2 *Str.* 1162.

If any person shall so take away, or cause to be taken away, and deflower, any such maid or woman child; or shall against the will or knowledge of the father, or if he be dead, of the mother having tuition of such child, contract matrimony with her by letters, messages, or otherwise; he shall be imprisoned for five years, or pay such fine as shall be assessed by the court, half to the king, and half to the parties grieved. f. 3.

And if any woman child or maiden, being above the age of 12 years, and under 16, shall consent or agree to such person so making such contract of matrimony; the next of kin to her shall have hold and enjoy her lands, during the life of the person so contracting. f. 6.

By the 26 G. 2. c. 33. No suit shall be had in any ecclesiastical court, in order to compel a celebration of marriage *in facie ecclesie*, by reason of any contract of matrimony whatsoever, whether *per verba de presenti*, or *per verba de futuro*. And the marriage of any person under the age of 21, without the consent of parents or guardians, shall be null and void.

Appeal by a woman.

In an appeal by a woman, the appellee cannot wage battle, but must put himself upon his country. 2 *Haw* 427.

Peereſſes ſhall be tried as peers for treaſon or felony. *20 H. 6. c. 9.* Peereſſes how to be tried.

A woman being convicted of an offence, for which a man may have his clergy, ſhall ſuffer the ſame puniſhment as a man ſhould ſuffer, that has the benefit of his clergy allowed; that is, ſhall be burned in the hand, and further kept in priſon as the court ſhall think fit, not exceeding one year. *3 W. c. 9.* Benefit of clergy.

But ſhe ſhall have the benefit of the ſaid ſtatute but once. *4 & 5 W. c. 24. ſ. 13.*

The judgment againſt a woman, in caſe of high treaſon, was not the ſame as againſt a man traitor, to be hanged, cut down alive, have the bowels taken out and the body quartered, but it was to be drawn to the place of execution, and there burned: Judgment in treaſon and felony.

And this alſo was the judgment againſt a woman, in caſe of petit treaſon; whereas the judgment againſt a man, for petit treaſon, is that he ſhall be hanged.

But now the puniſhment of burning women is aboliſhed, by ſtat. *30 G. 3. c. 48.*; the firſt ſection of which enacts that women convicted of high treaſon or petit treaſon, ſhall not be burned, but ſhall be drawn to the place of execution, and be there hanged.

In the caſe of petit treaſon, the court before whom women are convicted, ſhall paſs ſentence at ſuch time, and ſhall give ſuch orders with reſpect to the time of execution and the diſpoſal of the bodies, &c. as are directed to be given (by ſtat. *25 G. 2. c. 37.*) with reſpect to perſons convicted of murder. *ſ. 2.*

In caſe of felony, the judgment is the ſame againſt both man and woman, to be hanged by the neck till dead. *2 Haw. c. 48. ſ. 7.*

It is clear, that if a woman quick with child be condemned either for treaſon or felony, ſhe may alledge her being with child in order to get the execution reſpited, and thereupon the ſheriff ſhall be commanded to take her into a private room, and to impanel a jury of matrons, to try and examine whether ſhe be quick with child or not; and if they find her quick with child, the execution ſhall be reſpited till her delivery. — But it is agreed that a woman cannot demand ſuch reſpite of execution, by reaſon of her being quick with child more than once. *2 Haw. c. 51. ſ. 9.* Plea of pregnancy.

Women are not obliged to appear at the torn or lect. *2 Haw. c. 10. ſ. 11.* Attending the torn and lect.

Mr. Hawkins ſeems to be of opinion, that a cuſtom of the inhabitants ſerving the office of conſtable by turns, is good; and that when it comes to the turn of a woman-inhabitant, ſhe Serving the office of conſtable.

she must procure one to serve for her. 2 *Haw. c. 10. f. 37.*
And she may be appointed an overseer of the poor. *R. v. Stubbs. 3 T. R. 110. 521.*

Wood.

[13 *Ed. 1. st. 1. c. 46.* — 3 & 4 *Ed. 6. c. 3. f. 4.* — 35 *H. 8. c. 17. f. 7.* — 37 *H. 8. c. 6. f. 4.* — 1 & 2 *P. & M. c. 5.* — 43 *El. c. 7. f. 1. 2.* — 15 *C. 2. c. 2.* — 22 & 23 *C. 2 c. 7. f. 5, 6, 7.* — 1 *G. st. 2. c. 48.* — 6 *G. c. 16.* — 9 *G. c. 22.* — 29 *G. 2. c. 36.* — 31 *G. 2. c. 41.* — 4 *G. 3. c. 31.* — 5 *G. 3. c. 45.* — 6 *G. 3. c. 36.* — *c. 48.* — 9 *G. 3. c. 41.* — 10 *G. 3. c. 42.* — 50 *G. 3. c. 77.*]

Pulling down
hedges of
ground im-
proved.

WITH respect to the spoiling and stealing of wood, it is proper to insert here, in the first place, a clause in the statute of the 13 *Ed. 1. st. 1. c. 46.* (called the statute of *Westminster the second*;) both upon its own account and its being referred to afterwards by subsequent statutes; viz. *Where sometimes it chanceth that one having a right to approve doth then levy a dyke or an hedge, and some by night or at another season when they suppose not to be espied, do overthrow the hedge or dyke, and it cannot be known by verdict of the assize or jury who did overthrow the hedge or dyke, and men of the towns near will not indict such as be guilty of the fact; the towns near adjoining shall be distrained to levy the hedge or dyke at their own cost, and to yield damages.*

And by the 3 and 4 *Ed. 6. c. 3.* *Such persons as shall bring an assize hereupon, and have judgment to recover, shall have his damages trebled by the judgment of the court. s. 4.*

One having a right to approve] Forasmuch as the lord ought to divide the parts of the common improved by the hedge, ditch, or other defence, now this clause provideth that if persons unknown, either in the night or otherwise, so secretly prostrate the ditches, hedges, or other fences, as the lord cannot know against whom to bring his assize or other action, and the men of the towns next adjoining thereunto round about do not indict the misdoers of the fact, those next towns round about shall be distrained to make the hedge or ditch at their own cost, and yield damages to the lord. 2 *Inst. 476.*

Indict] That is, indict him at the king's suit, either of a riot, force, or trespass: But here it is demanded what time have the next towns round about adjoining to indict the misdoers, seeing there is no time appointed; and the answer is, that seeing no time is appointed, the law doth appoint (as

in may cases it doth) a year and a day for the indicting of the misdoers: and by the indictment the lord shall know against whom to bring his actions. *Id.*

The towns near adjoining shall be distrained to levy the hedge or dyke at their own cost, and to yield damages.] If the bordering towns do not within a year and a day indict the misdoers, then shall the lord or other party grieved bring his action upon this branch against the towns bordering round about the town wherein the fact was done, and judgment shall be given that they shall, at their proper costs, make the ditch or hedge and yield damages; and after judgment given they shall be distrained to make the hedge or ditch. 2 *Inst.* 477.

The latter opinion, however, seems to be, that the towns must indict the misdoers within a *reasonable time*, of which the court shall judge; otherwise, upon a return of a writ of *noctanter*, a *distringas* shall issue against the inhabitants, though within a year and a day. *R. v. Inhabitants of Epworth, Cro. Car.* 439.

By the 35 *H. 8. c. 17.* intituled, *The bill for the preservation of woods*, No person who shall have any woods or underwoods, wherein others have common of pasture, shall cut down the same, until the fourth part thereof shall be set out and fenced by the lord with the assent of the major part of the tenants; and if they cannot agree, then two justices being thereunto appointed by the more number of the justices of the shire in their quarter sessions shall set out the same. *f. 7.*

Cutting down woods wherein there is common of pasture.

By 37 *H. 8. c. 6.* If any person shall maliciously willingly and unlawfully burn, or cause to be burned, any heap of wood prepared, cut and felled, for making of coals, billets, or talwood; or bark any apple trees, pear trees, or other fruit trees, he shall forfeit to the party grieved treble damages, by action of trespass at the common law, and also 10*l.* to the king. *f. 4.*

Burning coal wood, and barking fruit trees.

This offence seems to be pointed at such as commit it from malice to the owner of the property; for the statute recites that "malicious and envious persons being men of evil and perverse dispositions, &c. and minding the hurt undoing and impoverishment of true and faithful subjects, &c." 2 *East's P.C. c. 22. f. 8.*

Every person who shall rob any orchards or gardens; or break or cut any hedge, pales, rails, or fence; or dig or pull up or take up any fruit tree or trees in any orchard, garden, or elsewhere, to the intent to take and carry the same away; or shall cut or spoil any woods, or underwoods, poles, or trees standing (the same not being felony by the laws of this realm); every such person, his procurers and receivers, knowing the same, being thereof convicted, by confession,

Robbing orchards, breaking hedges, pulling up fruit trees, spoiling wood growing.

session, or oath of one witness, before one justice (or mayor), shall give to the party such recompence and satisfaction for damages, and within such time, as the said justice shall appoint; and the same to be only for the first fault: And if such offender shall be thought, by the justice, not able or do not make such recompence, then he shall commit him to the constable where the offence shall be committed, or the party apprehended, to be whipped. And for every such offence for which the offender shall be escoons committed in form afore limited, the person so offending to receive the said punishment of whipping. 43 *El. c. 7. § 1.*

And if the constable shall not by himself or some other execute upon the offender the said punishment, the justice may commit him to the common gaol till he comply. § 2.

Number of the
trees to be set
forth.

Cut or spoil any woods, or underwoods, poles, or trees standing] *E. 2. An. Reg. v. Burnaby.* The defendant was convicted upon this statute, for cutting down several trees called lime trees, and damages given of 2*cd.* It was objected, that the number of the trees ought to have been set forth, because this ought to be the measure of the damages; and if an action should be brought for the trespass, this conviction cannot be pleaded in bar, for it will not appear that the conviction was for the same trees; and therefore the number and quantity ought to be mentioned expressly in the conviction, as well as in action for the trespass. And for this cause the court was of opinion that the conviction was ill. *Com. R. 131.*

Stealing trees
growing, or
apples upon the
trees, not se-
lony.

The same not being felony by the laws of this realm] The distinction in which case seemeth to be this; If they be any way annexed to the freehold, as trees growing, or apples growing upon the trees, then the taking and carrying them away is not felony, but only a trespass, for a man cannot steal a part of the freehold; but if they be severed from the freehold, as wood cut, or apples gathered from the trees, then the taking of them is not a trespass only, but felony.

Hedge breaking,
and other wood
stolen.

By the 15 *C. 2. c. 2.* The constable may apprehend, or cause to be apprehended, every person he shall suspect having or carrying any burden of any kind of wood, underwood, poles, or young trees, or bark, or bast of any trees, or any gates, stiles, posts, pales, rails, or hedgewood, broom, or furze;—And by warrant of one justice (A) directed to any officer, such officer shall have power to enter into and search the houses, out-houses, yards, gardens, or other places belonging to the houses of every person they shall suspect to have any kind of wood, underwood, poles, or young trees, or bark or bast of any trees, or any gates, stiles, posts, pales, rails, or hedgewood, broom, or furze; and where they shall find any such, to apprehend the persons suspected

suspected for cutting and taking the same; And as well those apprehended carrying, as those in whose houses or other places the same shall be found, to carry before one justice. And if such person do not then and there give a good account how he came by the same, such as shall satisfy the said justice; or else shall not, in some convenient time to be set by the said justice, produce the party of whom he bought the same, or some credible witness to depose upon oath such tale thereof, he shall be convicted of cutting and spoiling the same, and punished as by the said act of the 43 *El.* and further by this act;

That is to say, he shall for the first offence, give the owner such recompence or satisfaction (B) for damages, and within such time, as the justice shall appoint; and over and above pay down presently to the overseers, for the use of the poor, such sum, not exceeding 10*s.* as the justice shall think meet; and if he do not make such recompence, and also pay the said sum to the poor, the said justice shall commit him (C) to the house of correction not exceeding one month, or to be whipped (D) by the constable. And if he shall again commit the said offence, and be thereof convicted as before, he shall be sent to the house of correction for one month, and be there kept to hard labour. And if he shall again commit the said offence, and be thereof convicted as before, he shall be deemed an incorrigible rogue.

But no person shall be punished by this act, unless he be questioned in six weeks after the offence committed.

And by the said act of the 15 *C.2. c.2.* Whosoever shall buy any burdens of wood, or any poles or sticks of wood, or any other the premises, which may be justly suspected to have been stolen or unlawfully come by, one justice (on complaint in six weeks as aforesaid after the offence committed) may examine the matter on oath; and if he shall find that the same was bought of a person who might justly be suspected to have stolen or unlawfully come by the same, and that the same was stolen or unlawfully come by, he may award the party who bought the same to pay treble value (E) to him from whom it was unlawfully taken; and in default of present payment, may issue his warrant to levy the same by distress (F); and in default of distress, to commit the party to gaol at his own charge, there to remain one month without bail.

Buying stolen wood.

By the 1 *G. 2. c.48.* and 6 *G. 1. 16.* If any person shall either by day or night, cut, take, destroy, break, throw down, bark, pluck up, burn, deface, spoil, or carry away, any wood springs, poles, wood, tops of trees, underwoods, or coppice woods, thorns or quicksets, without the consent of the owner, or of the person chiefly intrusted with the care and

Destroying nurseries, timber trees, or other wood growing.

and custody thereof; or shall break open, throw down, level or destroy any hedges, gates, posts, stiles, railing, walls, fences, dykes, ditches, banks, or other inclosure thereof; the owner may have such satisfaction and recompence from the inhabitants of the parishes, towns, hamlets, villages, or places, joining on such wood springs or wood grounds, and recover such damages against such place or places, and in the same manner and form as by the (above recited) act of the 13 Ed. 1. *Æ. 1. c. 46.* Unless the offender, by such parishes or places, be convicted in six months. — This is to be understood, if the offender is not known.

But if the offender is known, then it is enacted as follows; *viz.* If any offender shall, in a riotous, open, tumultuous, or in a secret or clandestine manner, forcibly or wrongfully and maliciously, and without consent of the owner or person chiefly intrusted with the care thereof, cut down, destroy, break, bark, throw down, burn, take, deface, spoil, or carry away, any wood, or springs of wood, underwood, or coppice wood; or break open, throw down, level, or destroy, any hedges, gates, posts, stiles, rails, fences, ditches, banks, or inclosures, of such woods, woody grounds, coppices, plantations, timber trees, fruit trees, or other trees, thorns, or quicksets; two justices, or the justices in sessions, on complaint made by any inhabitant of such parish or place, or by the owner of the wood, or by any other, may cause the offender to be apprehended, and hear and determine the offence; and on conviction, shall commit (G) the offender to the house of correction to hard labour for three months; and where there is no house of correction, then to the prison for four months; and shall also order the offender to be publicly whipped by the master of such house of correction once a month, during such three months, if it is in a borough, or in the market town where such house of correction stands, or in the next market town next adjacent to such house of correction, on the market day, between the hours of eleven and two. And where there is no house of correction, the said justices shall order him to be whipped by the common hangman once a month, during such four months, on the market day of such borough, or on the market day of some town, between the hours of eleven and two. And before he shall be discharged, he shall find sufficient sureties, for his good behaviour, for two years.

And by the 29 G. 2. *c. 36. s. 8.* If any person shall unlawfully cut, take, destroy, break, throw down, bark, pluck up, burn, deface, spoil, or carry away, any tree growing in any waste, wood, or pasture, in which any person hath right of common; he shall be in like manner convicted, and incur the like penalty, as by the 6 G. *c. 16.*

Destroying trees,
growing in
wastes, &c.

By the 22 & 23 C. 2. c. 7. If any person shall in the night time maliciously, unlawfully, and willingly destroy any plantations of trees, or throw down any inclosures, he shall forfeit to the party grieved, treble damages: and three justices (1 Q.) may inquire thereof, in six months, as well by a jury, as by examination of witnesses on oath, or by any lawful ways, which to them shall seem meet. s. 5, 6, 7.

Destroying timber or other trees, or plants, or shrubs, in the night.

And by the 6 G. 3. c. 36. Every person who shall in the night time, lop, top, cut down, break, throw down, bark, burn, or otherwise spoil or destroy, or carry away, any oak, beech, ash, elm, fir, chestnut, or asp, timber tree, or other tree, standing for timber or likely to become timber, without the consent of the owner thereof; or shall, in the night time, pluck up, dig up, break, spoil or destroy or carry away any root, shrub, or plant, roots, shrubs, or plants, of the value of 5s. and which shall be growing and being in the garden ground, nursery ground, or other inclosed ground of any person; or shall be aiding or assisting therein; or shall buy or receive such root, shrub, or plant, roots, shrubs, or plants, of the value aforesaid, knowing the same to be stolen; shall be guilty of felony, and may be transported for seven years.

And by the 6 G. 3. c. 48. Every person who shall willfully cut or break down, bark, burn, pluck up, lop, top, crop, or otherwise deface, damage, spoil, or destroy, or carry away any timber tree or trees likely to become timber, or any part thereof, or the lops or tops thereof, without the consent of the owner, (or in any of his majesty's forests or chaces, without the consent of the surveyor or his deputy, or persons intrusted with the care thereof,) and shall be thereof convicted, on the oath of one witness before one justice; shall, for the first offence, forfeit not exceeding 20l. together with the charges previous to and attending such conviction, to be ascertained by such justice; on non-payment thereof, to be committed by such justice to the common goal, for any time not exceeding twelve months, nor less than six, or until the penalty and charges shall be paid: for the second offence, to forfeit not exceeding 30l. together with the charges as aforesaid; on non-payment, to be committed as aforesaid, for any time not exceeding eighteen months, nor less than twelve, or until the penalty and charges shall be paid: and if any person shall be guilty of a like offence a third time, and shall be thereof convicted in like manner (a) he shall be deemed guilty of felony;

Cutting or damaging or carrying away timber trees.

Penalty for the 1st offence.

For 2d offence.

(a) Here seems to be a mistake. Being convicted in like manner, implies a summary conviction, as before directed, before one justice.

3d offence,
felony.
What shall be
deemed timber
trees.

Destroying, da-
maging, or tak-
ing away roots,
shrubs, or plants
in fields or culti-
vated lands.

For 1st and 2d
offences, a pe-
nalty.

Third offence,
felony.

Destroying, &c.
in woods, &c.
wood, &c.

felony; and the court before whom he shall be tried, shall have authority to transport him for seven years. And all oak, beech, chefnut, walnut, ash, elm, cedar, fir, asp, lime, sycamore, and birch-trees, (and also poplar, alder, larch, maple, and horn-beam, 13 G. 3. c. 33.) shall be deemed timber trees, within the meaning of this act.

And every person who shall pluck up, spoil, or destroy, or take, or carry away any root, shrub, or plant, roots, shrubs, or plants, out of the fields, nurseries, gardens, or garden grounds, or other cultivated lands, of any person, without the consent of the owner, and shall be thereof convicted upon the oath of one witness before one justice (a) shall for the first offence, forfeit not exceeding 40s. together with the charges previous to and attending such conviction, to be ascertained by such justice; and if not paid immediately, the said justice shall commit him to the house of correction for one month, to be kept to hard labour, and once whipped there; for the second offence, shall forfeit not exceeding 5l. together with the charges as aforesaid; if not paid immediately, then to be committed to the house of correction for three months, to be kept to hard labour, and whipped there once in every of the said months: and if any person shall a third time commit the like offence, and shall be thereof convicted, he shall be deemed guilty of felony, and the court before whom he shall be tried shall have authority to transport him for seven years. *s. 3.*

And every person who shall go into the woods, under-woods, or wood grounds, of any of his majesty's subjects, not being the lawful owner thereof, and shall there cut, lop, top, or spoil, split down, or damage, or otherwise destroy, any kind of wood, or underwood, poles, sticks of wood, green stubs, or young trees, or carry or convey the same away, (or shall, by night or day, cut down, destroy, take, carry or convey away, any hollies, thorns, or quicksets, growing or being in any of his majesty's

tice: but it cannot be intended that a justice shall in this manner have power to transport a man. But the word *court* afterwards, before which he shall be convicted, (that is, of assize, or *sessions*, as it seemeth by the following words of the act,) implies a legal trial by jury. And therefore these words [*in like manner*] ought to be omitted.

Perhaps, observes Mr. *East*, in like manner were intended only to mean by the like evidence. 2 *East. P. C. c. 16. s. 29. (a)*

(a) The words in the printed act are (by mistake probably) — and shall be thereof convicted, upon the oath of one or more credible witness or witnesses, before any one or more credible witness or witnesses, before any one or more justice or justices of the peace.

forests,

forests or chases, or within the woods or wood-grounds of any of his majesty's subjects c. 41.) or shall have in his custody any kind of wood, underwood, poles, sticks of wood, green stubs, or young trees, (or any such hollies, thorns or quicksets, as aforesaid, 9 G. 3. c. 41.) and shall not give a satisfactory account how he came by the same; and shall be thereof convicted, before one justice, on the oath of one witness, shall, for the first offence, forfeit not exceeding 40s., together with the charges previous to and attending the conviction, to be ascertained by such justice; and if not paid immediately, the said justice shall commit him to the house of correction for one month, to be kept to hard labour, and once whipped there; for the second offence, shall forfeit not exceeding 5*l*. together with the charges as aforesaid; if not paid immediately, then to be committed to the house of correction for three months, to be kept to hard labour, and whipped there once in every of the said months: and if any person shall commit any of the offences aforesaid a third time, he shall, being duly convicted thereof according to law, be deemed an incorrigible rogue, and punished as such; that is, he may, by the 17 G. 2. c. 5. s. 9. be committed by the sessions to the house of correction, for any time not exceeding two years, nor less than six months, to be kept to hard labour, and whipped in such manner, and at such time and places, as they shall think fit; and if a male, above twelve years of age, may be employed in his majesty's service by sea or land.

And his majesty's justices of the peace of the respective places where any of the said offences shall be committed, shall put this act in execution. Power of the justices.

The said forfeitures to be distributed, half to the informer, and half to the person aggrieved. Distribution of the penalties.

And if any person shall hinder, or attempt to prevent, the seizing or securing any person employed in carrying away any such timber or other trees, he shall forfeit 10*l*. to him who shall convict such offender; if not paid immediately on conviction, the justice before whom he shall be convicted shall commit him to the house of correction, to hard labour, not exceeding six calendar months. Hindering the execution.

The conviction to be written on parchment or paper, in the following form, or to the like effect:

_____ } **BE** it remembered, that on the _____ day of _____
to wit. } in the year _____, A. B. was upon the com- Conviction;
plaint of C. D. convicted before _____ of the justices of the
peace for _____, in pursuance of an act passed in the sixth year,
[or if the prosecution is on the 9 G. 3. c. 41. then say, in the
ninth year] of the reign of his majesty king George the third for
_____ (as the case shall be).

Given under _____ hand and seal, the day and year above written.

These acts to be
taken together.

Which conviction shall be certified to the next sessions, there to be filed amongst the records. And the same shall not be quashed for any want of form: nor be removed by *certiorari*.

In the case of *Hitchcock v. Howe*, eleven judges present, in *Hilary* term 1788, all held that the first of these acts is not repealed by the second; but that they shall be considered as one act, being passed in the same session. They said it was mere accident in what order the chapters in the statute book were arranged; it depended on the will of the clerks of the parliament: and if the chapters were transposed in this case, there could be no doubt that the result of the two acts, construed together, would be, that if the property taken or destroyed were of the value of 5s. and the fact were done in the night time, it was felony under the former statute; but that in all other cases the offence must be prosecuted under the last act. But that the court were not obliged to transport the offender under the first act, but might pass any other sentence that could be passed for a single felony. *Buller J.* said, that if the two statutes had been made in different sessions, undoubtedly the last would have been a virtual repeal of the former, 2 *East's P. C. c. 16. f. 28. 2 Leach, 541.*

The name of the owner of the trees must be truly stated in the indictment; *R. v. Patrick & Pepper. O. B. Feb. 1783. Leach, 287.*

If any person shall steal and take away, or wilfully and maliciously pull up or destroy any madder-roots, and shall be convicted thereof before one justice, by confession or oath of one witness, he shall for the first offence pay to the owner such satisfaction for damages and in such time as the justice shall appoint, and moreover shall pay down upon the conviction to the overseer for the use of the poor such sum not exceeding 10s. as to the justice shall seem meet; and if he shall not make such recompence, and also pay such sum to the use of the poor, the said justice shall commit him to the house of correction for any time not exceeding one month, or may order him to be whipped by the constable or other officer as to the justice shall seem meet; and for the second offence he shall be committed to the house of correction for 3 months. 31 *Geo. 2. c. 35. f. 5.*

Prosecution to be commenced within thirty days. *f. 6.*

If any person shall maliciously set on fire, or burn, or cause to be burned, any wood, underwood or coppice, or any part thereof, he shall be guilty of felony. 1 *Geo. stat. 2. c. 48. f. 4.*

By the 9 *G. c. 22.* commonly called the Black Act, If any person shall unlawfully and maliciously cut down, or otherwise destroy, any trees planted in any avenue, or growing in any garden, orchard, or plantation, for ornament, shelter, or profit, or set fire to any stack of wood, or forcibly

Destroying
trees, or burning
wood, by the
Black Act.

rescue

rescue any person in custody for any of the said offences, or by promise or reward procure any to join him therein, he shall be guilty of felony without benefit of clergy. And the hundred shall answer damages (not exceeding 200*l.*) as in cases of robbery by the 27 *El.*

That is to say, the party may either take remedy for his damages against the hundred by this act; or against the parish, town, hamlet, vill, or place where the offence was committed by the aforesaid acts of the 1 *G. 2. c. 48.* and 6 *G. 2. c. 16.* as to him shall seem most meet. 29 *G. 2. c. 36. f. 9.*

It shall be lawful for the king, and all other owners of wastes, woods, and pastures, wherein any persons or bodies politic have common of pasture, with the assent of the major part in number and value of the owners and occupiers of tenements, to which the right of common of pasture doth belong, and for the major part in number and value of the owners and occupiers of such tenements, with the assent of the owners of the wastes, woods, and pastures, and for any other person, with the assent and grant of the owner of such wastes, woods, pastures, and of the major part in number and value of the owners and occupiers of such tenements, to inclose and keep in severalty, for the growth and preservation of timber or underwood, any part of such wastes, woods, and pastures, for such time and in such manner and upon such conditions as shall be agreed by them respectively. 29 *G. 2. c. 36. f. 1.*

Encouragement
of the plantation
of wood.

This word *owners* shall extend to tenants for life, and for term of years: provided, that nothing done by such tenants for life or years shall have effect or continuance after determination of such their estate. 31 *G. 2. c. 41.*

All bodies politic or corporate, whether aggregate or sole, feoffees in trust, executors, administrators, guardians, committees, or other trustees whatsoever, and the husbands of femes covert, may agree to such inclosure, and such their agreement shall be valid. 29 *G. 2. c. 36. f. 5.*

And in case the owner of such wastes, woods, or pastures, and the major part in number and value of the owners and occupiers of such tenements; shall jointly agree to assign their right for the purpose aforesaid to any other person, such owner shall not have an estate in fee-simple therein, or shall be restrained from alienating; the recompence to be paid to such owner shall be either by a grant of a share of the profit from the sale of such timber or underwood, or by a grant of other lands, or of an annuity or rent-charge issuing out of the ground so inclosed, or out of other lands; such equivalent to be held and enjoyed by the owner of such wastes, woods, and pastures, and such as shall be intituled to the same in reversion, remainder or succession; in like manner as the estate in such woods, wastes or pastures is limited to be held and enjoyed. *f. 2.*

And where any recompence shall be agreed to be given for such inclosure to or to the benefit of the owners and occupiers of such tenements, it shall be made either by a grant of a share of the profit which shall arise from the sale of such timber or underwood, or by a grant of other lands; or by some annuity or rent-charge issuing out of the ground so inclosed, or out of other lands; or shall be paid in money, to be placed out at interest on public securities, or laid out in the purchase of lands, or of some annuity or rent-charge issuing out of lands; and the produce thereof, until such purchase shall be made, and also every recompence to be made by virtue of the said act of the 29 G. 2., shall be applied and given to the persons interested in the right of common, in proportion to their respective interests. 29 G. 2. c. 36. s. 2. 31 G. 2. c. 41.

Where it is for the relief of the poor.

Where the inhabitants of any parish or township shall be willing to acquire such right of inclosure, for the employment and benefit of their poor, they may (by the consent and direction of the major part of the inhabitants, assembled at a vestry or public meeting to be held for that purpose, public notice thereof in the church being first given on three *Sundays* before) pay the recompence for the same, and the charges of inclosing and preserving such grounds, out of the poor rate; and shall apply the profit from the sale of such timber or underwood towards the relief of the poor. 29 G. 2. c. 36. s. 2. Note. Here is no allowance for the charges of planting.

And the agreement for such inclosure shall be in writing, and signed by the parties, and within three months after the execution thereof be enrolled by the clerk of the peace where the greater part of such wastes, woods or pastures shall lie. s. 3.

And by the 10 G. 3. c. 42. further time is given for such enrolment, provided the same shall have been made on or before Dec. 25, 1770. And inclosures made before the passing of this act of 10 G. 3. c. 42., though not strictly according to the directions of the said former acts, are enacted to be good and valid.

Persons aggrieved by such agreement may, within six months after the enrolment, appeal to the sessions, whose determination shall be final. And if no such appeal shall be made, the agreement shall be for ever binding. 29 G. 2. c. 36. s. 4.

If any person, after the time limited for such appeal, shall either by day or night unlawfully cut, take, destroy, break, throw down, bark, pluck up, burn, deface, spoil or carry away, any trees growing in any such inclosure, without consent of the owner or owners thereof, such owner shall have such remedy, and receive such satisfaction and recompence from the inhabitants of such parishes, towns, hamlets, villages or places adjoining to such inclosures, and recover such damage against them, and in the same manner and form as is directed by the aforesaid act of the 13 Ed. 1. s. 1. c. 46.

unless the offender or offenders shall be convicted in six months. *f. 6.*

And two justices, or the justices in sessions, on complaint, may cause every such offender to be apprehended, and hear and determine the offence, and inflict the like penalty as is directed by the *aforesaid act of the 6 G. c. 16. lb. f. 7.*

For the better preventing the destruction of timber trees, and other trees, underwood, and covert, in forests and chases, it shall be lawful for every surveyor of his majesty's woods, and his lawful deputy, and for the officers and keepers of any forest or chase, (besides the penalties for destroying the trees or underwood,) to seize and take away for his own use, any saw, axe, hatchet, bill-hook, or other instrument, used by any person whom they shall find unlawfully stocking up, sawing, cutting down, topping, lopping or destroying, any timber tree, or other tree, underwood or covert, within such forest or chase. *4 G. 3. c. 31.*

Preservation of
wood in forests.

By the *5 G. 3. c. 45.* Certain premiums are given on the importation of deals, planks, boards and timber, from the colonies in *America*; and if any dispute shall arise between the officers of the customs and the importers at the port of *London*, as to the quality or condition of the wood or timber, the commissioners may call two merchants or others, to declare on oath their judgment thereof. And if it be in any of the out ports, proper descriptions of the quality and condition, attested by two merchants or other judicious persons who shall be sworn thereto by a justice of the peace, shall be sent to the said commissioners.

Importing
wood.

By the *1 & 2 P. & M. c. 5.* No person shall carry any wood out of the realm, on pain that the owner of the ship shall forfeit the ship and tackle; the owner of the wood, double the value of the wood; and the master and mariners all their goods, and be imprisoned for a year. *f. 2.*

Exporting
wood.

And if any person shall carry any wood to any ship, to be transported, the owners masters and mariners shall forfeit in like manner. *f. 3.*

If any person shall obtain of the king a license to transport wood, and shall carry more than is contained in his license, he shall forfeit treble value, and be imprisoned for a year. *f. 4.*

And they which have licenses shall lade all at one place certain; on pain of forfeiting all their goods and chattels. *f. 5.*

The said forfeitures to be half to the king, and half to him that shall sue in any court of record: moreover, all and singular justices of the peace within three years after any offence committed, may hear and determine the same by a jury. *f. 6.*

By the *50 G. 3. c. 77.* Certain duties of customs are imposed upon wood imported, and regulations enacted relating thereto.

Duty.

A. Warrant to search for stolen wood; on the
15 C. 2. c. 2.

Westmorland. } To the high constable of——.

WHEREAS A. I. of—— yeoman bath this day made oath before me J. P. esquire, one of his majesty's justices of the peace for the said county, that divers quantities of wood, within the space of six weeks last past, have been cut, taken away, and carried off and from his lands at—— in the same county, [or, as the case may be]; and that he bath just cause to suspect, and doth suspect, that the said wood, or part thereof, is concealed in the houses, out-houses, yards, gardens, or other places, belonging to such houses of A. O. of—— yeoman, at—— aforesaid; These are therefore to require you to enter into and search the said houses, out-houses, yards, gardens, or other places, belonging to such houses of him the said A. O. at—— aforesaid; and if, on such search, you shall there find any such wood, that then you apprehend the person in whose house, out house, or other place it shall be found, and bring him before me, or some other of his majesty's justices of the peace for the said county, that such proceedings may be had thereupon as to law doth appertain. Given under my hand and seal at—— in the said county, the—— day of—— in the year——.

B. Order for satisfaction to the owner; on the
15 C. 2. c. 2.

Westmorland. **WHEREAS** A. I. of—— in the said county, yeoman, on the—— day of—— now last past, did make oath before me J. P. esquire, one of his majesty's justices of the peace for the said county, that on or since the—— day of—— now last past, a certain quantity of wood, the property of him the said A. I. at—— in the parish of—— in the county aforesaid was cut and spoiled, and from thence taken and carried away; and that he had just cause to suspect, and did suspect, that A. O. of—— in the said county, yeoman, did cut, spoil, take, and carry away the same: And whereas the said A. O. was on the—— day of—— now last past apprehended by A. C. constable of—— in the said county, carrying wood suspected to be stolen by him the said A. O. [Or, whereas a certain quantity of wood, to wit, (here specifying the same), suspected to be stolen, was this day by virtue of my warrant for that purpose directed to the constable of—— in the said county found in the house (or other place) of the said A. O. at—— aforesaid]; And whereas the said A. O. being now brought before me hath not given to me any satisfactory account how he came by the said wood, nor can produce the party of whom he bought the same, nor any credible witness to testify upon oath the sale thereof; therefore the said A. O. is convicted by me of cutting, spoiling, taking, and carrying away the said wood; And whereas also it is duly proved before me that A. I. of—— aforesaid, yeoman, was and is the

owner of the said wood, and that the said offence was committed at ———— aforesaid, in the parish of ———— in the said county; I do therefore hereby order and appoint the said A. O. within the space of ———— days now next ensuing to pay unto the said A. I. the sum of ———— in recompence and satisfaction for damages done unto him the said A. I. by him the said A. O. in cutting, spoiling, taking, and carrying away the said wood; and I do also hereby order the said A. O. within the space of ———— days now next ensuing as aforesaid to pay to the overseers of the poor of the parish of ———— aforesaid, for the use of the poor of the said parish, the sum of 10s. for his said offence. Given under my hand and seal at ———— in the said county, the ———— day of ————.

C. Commitment thereupon for non-payment.

Westmorland. } To the constable of ———— and to the
keeper of the house of correction at ————
in the said county.

WHEREAS A. I. of ———— in the said county, yeoman, on the ———— day of ———— now last past, did make oath before me J. P. esquire, one of his majesty's justices of the peace for the said county, that within the space of six weeks then last past, a certain quantity of wood, the property of him the said A. I. at ———— in the parish of ———— in the county aforesaid, was cut and spoiled, and from thence taken and carried away; and that he had just cause to suspect, and did suspect, that A. O. of ———— in the said county, yeoman, did cut, spoil, take and carry away the same; And whereas the said A. O. was on the ———— day of ———— now last past apprehended by A. C. constable of ———— in the said county carrying wood suspected to be stolen by him the said A. O. [Or, whereas a certain quantity of wood. (specifying the particulars,) suspected to be stolen, was on the ———— day of ———— now last past, by virtue of my warrant for that purpose directed to the constable of ———— in the said county, found in the house (or other place) of the said A. O. at ———— aforesaid;] And whereas the said A. O. on the ———— day of ———— now last past, having been brought before me, did not and could not give to me any satisfactory account how he came by the said wood, nor could produce the party of whom he bought the same, nor any credible witness to testify upon oath the sale thereof, and thereupon was by me convicted of cutting and spoiling the said wood, and ordered to pay to the said A. I. the owner of the said wood, the sum of ———— within ———— days then next ensuing, in recompence and satisfaction for damages, and also the sum of 10s. to the overseers of the poor of the parish of ———— aforesaid, where the said offence was committed, for the use of the poor of the said parish; and whereas it appears to me that the said several sums have been duly demanded of him the said A. O. and that he the said A. O. hath refused and doth refuse to pay and hath not yet paid the same nor any part thereof; I do therefore hereby require you the said constable of ———— aforesaid to convey the said A. O. to the said

house of correction at ———— aforesaid, and to deliver him to the keeper thereof, together with this warrant: And I do hereby command you the said keeper to receive him into your custody in the said house of correction, and there to detain him for the space of ———— days, Herein fail you not. Given under my hand and seal at ———— in the said county the ———— day of ———— in the ———— year ————.

D. If instead of being sent to the house of correction, he is ordered to be whipped then say, — I do therefore hereby command you the said constable forthwith to receive the said A. O. into your custody, and to strip him naked from the middle upwards, and whip him until his body be bloody.

E. Order for the buyer of stolen wood, to pay treble damages; on the 15 C. 2. c. 2.

Westmorland. **W**HEREAS it hath been duly proved before me ———— esquire, one of his majesty's justices of the peace for the said county, that A. O. of ———— yeoman did within the space of six weeks now last past buy several burdens of wood of B O. of ———— yeoman, and that he the said B. O. is justly suspected to have stolen the same from A. I. of ———— yeoman, and that the said wood, at the time when the said A. O. so bought the same, was of the value of 10s.; I do therefore hereby order that the said A. O. do forthwith pay unto the said A. I. the sum of 30s., the same being treble value of the said wood so by him bought as aforesaid. Given under my hand and seal at ———— in the said county, the ———— day of ———— in the ———— year of the reign of ————

F. Warrant of distress for nonpayment of the same.

Westmorland. { ———— Here recite the order ———— Then say, And whereas the said A. O. hath not paid to the said A. I. the aforesaid sum of 30s. nor any part thereof; These are therefore to command you to make distress of the goods and chattels of him the said A. O. and if within the space of [five] days next after such distress, by you made, the said sum of ———— together with reasonable charges of taking and keeping the said distress shall not be paid, that then you do sell the said goods and chattels so by you distrained, and out of the money arising by such sale pay the said sum of ———— unto him the said A. I. returning the overplus upon demand unto him the said A. O., the reasonable charges of taking, keeping, and selling the said distress being thereout first deducted. Given, &c.

G. Commitment for destroying trees; on the 1 G. 2. c. 48. and 6 G. c. 16.

Westmorland. { To the constable of ———— and to the keeper of the house of correction at ———— in the said county.

FORASMUCH as A. O. ———— in the county aforesaid, yeoman, is this day duly convicted before us ———— esquire,

two of his majesty's justices of the peace for the said county, for that be the said A. O. on the ——— day of ——— now last past, at ——— aforesaid, in the county aforesaid, did wrongfully and maliciously cut down two ash trees [or as the case shall be] the property of A. I. of ——— yeoman, without the consent of him the said A. I. the owner thereof, or of any other person chiefly intrusted with the care and custody thereof; We do therefore hereby command you the said constable to convey the said A. O. to the said house of correction at ——— aforesaid, in the county aforesaid, and to deliver him to the keeper thereof, together with this precept. And we do also hereby require you the said keeper of the said house of correction to receive him the said A. O. into your custody in the said house of correction, and him there keep to hard labour for the space of three months now next ensuing, and until he shall find sufficient sureties for his good behaviour for two years. And we do likewise hereby order you the said keeper of the said house of correction publicly to whip him the said A. O. once in every month, during the said three months, in the market town of ——— in the said county, on the market day there, between the hours of eleven and two. And for so doing this shall be your sufficient warrant. Given under our hands and seals, at ——— in the said county, the ——— day of ——— in the ——— year ———.

Woollen manufacture.

WHEREIN,

- I. Concerning the winding of wool - 794
[27 Ed. 3. stat. 2. c. 23. — 8 H. 6. c. 22. — 23 H. 8. c. 17. — 28 G. 3. c. 38. f. 79. to 85. inclusive. — 50 G. 3. c. 83.]
- II. Laws to prevent the exportation of live sheep and wool - 796
[9 & 10 W. c. 40. f. 3, 4, 5, 6. — 28 G. 3. c. 38. f. 1, 2, 3, 9. 11 to 17. 19 to 34. 36 to 40. 42 to 49. 51 to 58. 60 to 72. 77, 78.]
- III. Concerning cards for manufacturing wool 809
[13 & 14 C. 2. c. 19. — 26 G. 3. c. 70]
- IV. Concerning the deceitful working of woollen cloth ib.
[13 G. c. 23. l. 8. — 17 G. c. 5. f. 4. — 49 G. 3. c. 109.]
- V. Concerning the fulling of cloth - 811
- VI. Concerning the searching of cloth, and therein of the length, breadth and weight thereof ib.
[8 El. c. 12. — 49 G. 3. c. 109.]
- VII. Concerning the dyeing of cloth. ib.
[6 Ann. c. 8. — 23 G. 3. c. 15. — 49 G. 3. c. 109.]

VIII. Con-

VIII. *Concerning tenters, and the stretching of cloth* 812
[22 C. 2. c. 5. — 15 G. 2. c. 27. — 49 G. 3. c. 109.]

IX. *Concerning the dressing of cloth.* - 813
[3 H. 7. — 49 G. 3. c. 109.]

X. *Concerning mixed or medley broad cloth in particular; especially in Gloucestershire, Wiltshire and Somersetshire* - *ib.*
[10 An. c. 16. — 1 G. 2. c. 15. — 13 G. c. 23. — 49 G. 3. c. 109.]

XI. *Concerning the Yorkshire manufacture in particular* - 816
[11 G. 2. c. 28. f. 1—10. f. 12, 13. — 5 G. 3. c. 51. f. 2—9. 11. 16. 19. 20. 22. — 6 G. 3. c. 23. f. 1. 2. 4—12. 15. 18 — 22. 24, 25, — 49 G. 3. c. 109. f. 2.]

XII. *Concerning the burying of dead in woollen cloth* 823
[30 C. 2. c. 3. f. 3—10.]

XIII. *Against importation of woollen cloth, and encouragement of the exportation of woollen manufactures* - 825
[11 Ed. 3. c. 3. — 4 Ed. 4. c. 1. f. 7. — 11 & 12 W. c. 20.]

XIV. *Privileges granted to wool-combers.* - *ib.*
[35 G. 3. c. 124. f. 1, 2, 3. — 49 G. 3. c. 109.]

By the 50 G. 3. c. 83. the 1 R. 3. c. 8. 5 H. 8. c. 3. and 27 H. 8. c. 13. and the 33 H. 8. c. 19. are repealed.

I. *Concerning the winding of wool.*

Deceitful winding.

No man shall make any inwindings within the fleece, at the rolling up of his wool; nor put in the same, locks, pelt, wool, tar, stones, sand, earth, grass, nor any dirt; and if he do, the party grieved may bring his action at common law of trespass and deceit. 8 H. 6. c. 22.

No person shall wind any fleece not sufficiently washed, except in counties where they do not use to wash sheep; nor shall wind with any fleece, clay, lead, stones, sand, tails, deceitful locks, cot, cals, comber, lamb's wool, or any other thing whereby the fleece may be the more weighty, to the deceit and loss of the buyer (except where fleeces are sold by number, and not by weight); on pain that the seller shall forfeit *sixpence* a fleece, half to the king, and half to him that shall sue. 23 H. 8. c. 17.

But by reason of the said penalty being but small, and one moiety therefore going to the king, and the great expence attending the recovery thereof, by 28 G. 3. c. 38. it is enacted, That every person offending against the said act shall, in lieu

of every *fixpence* therein directed to be forfeited, forfeit and pay *two shillings*, the whole thereof to go the finder or prover of the said deceits: and such offences from henceforth may be proceeded upon, heard and determined by one neighbouring justice, in a summary way; who may summon the offender, and on his appearance or default may examine into and give judgment in the premises; and in case the penalty shall not be paid within *fix* days after conviction, the same shall be levied by distress. *f. 79. 81.*

Power of the justices.

Provided, that if it shall appear to the satisfaction of such justice that the matter complained of was not done with an intent to deceive the buyer or that any clay sand or earth found in such fleece was not intentionally put there to make the same more weighty, but became mixed or connected therewith by reason of the necessary pasturing folding or keeping of the sheep whereon such fleece was grown, subsequent to the rivering or washing such sheep; such justice may discharge such complaint, and acquit the person accused. *f. 80.*

When not done fraudulently.

And whereas it may frequently happen, that the seller of such deceitful wool may not be the person who wound the same, or that it was so wound without the knowledge or consent of such seller, in such case such seller touching whom any complaint or information has been made, and which shall be then pending, after he shall have received such summons as aforesaid, may apply to the justice who granted the same, and require him, on information being given for that purpose, to summon the person who actually wound such wool to appear before him at such time and place as he shall think proper (of which sufficient notice shall be given by such seller to the person complaining); and whether such winder appear or not (proof being made of his having been duly summoned) such justice may hear and determine the matter of such complaint; and if it shall appear to his satisfaction that the wool complained of had been deceitfully wound by the person then charged by the seller, without his knowledge or consent in such case such winder, and not the seller, shall be liable to the penalties aforesaid; but if it shall appear otherwise to such justice, or be determined otherwise upon hearing the appeal hereafter given, then the seller shall remain subject to the said penalties; and in case of non-payment of any such penalty, or that the same cannot be recovered after conviction, every such person shall be committed to the gaol or house of correction for any time not exceeding *three* calendar months, nor less than *21* days, unless the penalty and costs (if any) be sooner paid. *f. 82.*

Whether the penalty shall be paid by the seller or the winder.

Any person who shall think himself aggrieved by the determination of such justice may appeal to the next sessions, giving notice in writing within *five* days next after such conviction to the respondent in such appeal, and at the time of making such appeal entering into recognizance with two sufficient

Appeal

sufficient sureties before the said justice to appear and prosecute the same at the said sessions, and to abide such order or determination and to pay such costs as shall be awarded by the court. *f. 83.*

Provided, that no conviction shall be set aside for want of form. *f. 84.*

Winders of wool
may be sworn at
the sessions.

And whereas by 27 *Ed. 3. ft. 2. c. 23.* a certain number of winders of wool were to be sworn, and such winders were to repair to be sworn to the mayor of the Staple at *Westminster*, which is inconvenient and expensive; it is therefore enacted that the justices at the quarter sessions, or any adjournment, may administer to every person desirous of becoming a sworn winder of wool, and who shall produce a certificate under the hands of any two growers of wool, testifying to the satisfaction of such justices, that such person is properly qualified, an oath to the following purport;

Oath.

I A. B. do swear that I will truly and justly, without deceit, wind and fold all and singular the wool which I shall take upon me to wind and fold, without leaving or putting any clay, lead, stones, sand, tails, deceitful locks, lamb's wool, or any other thing, whereby the fleece may be made more weighty, to the deceit and loss of the buyer; and that I will not use any other deceit, craft, guile, or fraud, in the winding or folding of any such aforesaid wool. So help me God.

An entry of administering the said oath shall be made in the records of such sessions, and a certificate thereof shall be delivered by the clerk of the peace to the person so sworn. *f. 85.*

But persons not
sworn may be
employed.

Provided always, that nothing herein shall prevent any one from employing any person in winding wool, although not sworn in manner aforesaid. *f. 86.*

II. Laws to prevent the exportation of live sheep and wool.

All former acts
repealed;

By 28 *G. 3. c. 38.* All former acts, so far as they relate to the carrying coastwise, or to the isles of *Jersey, Guernsey, Alderney, Sark, and Man*, or to the exportation of live sheep, rams, and lambs, wool, woollfelts, mortlings, shortlings, yarn, or worsted made of wool, wool-flocks, cruels, coverlids, waddings, or other manufactures, or pretended manufactures made of wool slightly wrought up, or otherwise put together so as the same may be reduced to and made use of as wool again, or mattresses, or beds stuffed with combed wool, or wool fit for combing or carding, or fullers' earth, fulling clay, or tobacco-pipe clay, shall be repealed; except so much of the 9 & 10 *W. 3. c. 40.* as relates to wool shorn, laid up, or lodged within ten miles of the sea-side in *Kent or Sussex*, or to persons residing within 15 miles of the sea in the said counties. *f. 1.* (with a proviso by sect. 10. that nothing in the act should extend to prohibit the exportation of tobacco-pipe clay to any

any *British* sugar colony or plantation in the *West Indies*, so long as the same is allowed by 17 Geo 3. c. 43. s. 10.)

And if any person shall bring, deliver, send, receive, or take into any ship vessel or boat, or cause the same to be done, any live sheep, rams or lambs, the breed of *Great Britain* or any of the said isles, to be carried or conveyed out of the kingdom or any of the said isles, the same, and also the ship vessel or boat, on board of which such sheep or lambs are taken, shall be forfeited, and may be seized and secured for the benefit of the person seizing the same; and every person so offending his aiders and abettors, knowing thereof, shall on conviction forfeit 3*l.* for every such sheep or lamb, and shall also suffer solitary imprisonment in the gaol or house of correction for three calendar months, without bail, and until such forfeiture be paid, so as the whole imprisonment for non-payment of such forfeiture shall not exceed twelve calendar months; and for every subsequent offence 5*l.* for every such sheep or lamb; and a like imprisonment for six calendar months, and until such forfeiture be paid, but such imprisonment for non-payment of such penalty shall not exceed two years; such forfeitures to go to the person who shall sue for the same. 28 G. 3. c. 38. s. 2.

Penalty on exporting live sheep, or lambs.

Provided, that the same shall not extend to wether sheep carried alive on ship-board for food, provided a license be first obtained from the port officer, such license to specify the number of sheep. and that the same be shipped in the presence of an officer, on pain of forfeiting such sheep to the person who shall seize the same, and also 20*s.* for every sheep, to the informer. s. 2. 3.

Except wether sheep shipped for food.

And every person who shall directly or indirectly carry, export, transport, or convey out of *Great Britain*, or the isles of *Jersey*, *Guernsey*, *Alderney*, *Sark*, and *Man*, or any of them, and wool of the growth thereof, *woolfelts*, *mortlings*, *shortlings* yarn, or worsted made of wool, *wool-stocks*, *cruels*, *coverlids*, *waddings*, or other manufactures or pretended manufactures made of wool slightly wrought up, or otherwise put together so as to be made use of as wool again, *mattresses*, or beds stuffed with combed wool, or wool fit for combing or carding, *fullers' earth*, *julling clay*, or *tobacco pipe clay*; and also every owner of any ship or other vessel, horse or other beast of burthen, waggon, cart or carriage, upon which any sheep, wool, or articles aforesaid, hereby prohibited from exportation, shall be exported, transported, carried or conveyed, packed or loaded, with an intent to be exported; and every master, commander, and mariner of any such ship or vessel, and every factor, servant, or other person whatsoever; and also every collector, customer, comptroller, waiter, searcher, surveyor, or other officer, knowing thereof, and being aiding, assisting or consenting thereto; shall on conviction forfeit

Penalty on exporting wool &c.

3*s.* for

3s. for every pound weight of such wool or other articles aforesaid, or 50l. in the whole, at the election of the person who shall sue; and shall also suffer solitary imprisonment in the gaol or house of correction for three calendar months without bail, and until the penalty be paid, so as that the whole of such imprisonment for the non-payment of such penalty shall not exceed twelve calendar months: and upon being convicted of a second or other subsequent offence, he shall be subject to the like penalties, and a like imprisonment for six calendar months, and until the penalty be paid, but not to exceed two years for the non-payment of such penalty; the said forfeitures to go to the person who shall sue. And all such wool and other articles aforesaid conveyed contrary to this act, together with the ships vessels boats waggons carts or carriages horses or other beasts on which the same shall be loaden, or made use of in conveying the same, may be seized, and shall be forfeited for the benefit of the person who shall seize the same. *s. 9.*

Which may be seized when found near the sea.

Any person qualified as hereafter mentioned may seize for his own use all such wool or other articles aforesaid, which he shall discover to be laid on shore at or near the sea, or any navigable river, with intent to be exported or conveyed out of the kingdom or any of the said isles, and the offender shall be subject to the like pains and penalties as exporters of wool. *s. 15.*

Carrying coast-wise wool, woollen, or worsted articles.

Wool carrying from the place of shearing.

And all owners of wool, or other woollen or worsted articles hereby prohibited from being exported, or their agents, who shall carry the same to any place on the sea coast with an intent to convey the same to any other place on the sea coast, from whence the same may be transported, shall cause due entry to be made thereof at the port from whence the same is so intended to be conveyed before loading or carrying away thereof, within five miles of any such place on the said sea coast from whence the same is so to be conveyed. And if any wool or other the last mentioned articles shall be carrying towards the sea for the purposes aforesaid, without being first entered in manner aforesaid, and without being accompanied with a certificate of such entry; such wool and other articles, and also the horses or other beasts, and carriages used in conveying the same, shall be forfeited to the person who shall seize thereon. *s. 11.*

Provided always, that the same shall not extend to hinder any person from carrying his wool from the place of shearing to his own house, though within five miles of the sea, so as such person, within ten days after shearing thereof, and before it is removed from the place where it was first carried after shearing, do under his hand certify to the officer of the customs in the next adjacent port, the number of fleeces, and where the same is housed, and that such person do not remove or dispose thereof to any other place, without certifying to such

such officer under his hand his intention to remove the same three days before such removal; and in default thereof, such person shall have no benefit by this proviso, but shall be liable to the penalties aforesaid. *f. 12.*

But in case the next adjacent port shall not be within five miles of the dwelling-house of such person, then such entry and certificate shall be made and given to a justice, or the nearest revenue officer. *f. 13.*

Provided, that in case any sheep shall be shorn between the 1st *March* and 1st *July* in any year, for the sole purpose of sending them to market, and in case the owner shall not remove or otherwise dispose of the wool so shorn from the place where the same was first carried after shearing, without first certifying in three days in manner aforesaid, it shall not be necessary for such owner to certify the true quantity and number of fleeces and where housed, until he shall certify as aforesaid for the whole of his flock after the general shearing for that season. *f. 14.*

Sheep shorn for market.

And no wool, or other the aforesaid woollen or worsted articles prohibited to be exported shall be carried towards the sea, within five miles of the coast, between sun-setting and sun-rising, on forfeiture thereof, together with the horses and carriages conveying the same, for the benefit of the person who shall seize the same; and the driver of such carriage knowing thereof shall, on conviction, be committed to the house of correction for one month without bail. *f. 25.*

Wool, &c. not to be removed in the night within five miles of the coast.

Provided, that the same shall not extend to wool shorn and carried after sun-setting the *same day* from the place of shearing to the owner's house, although towards the sea, and within five miles of the coast. *f. 26.*

Except wool shorn the same day.

Nothing herein shall hinder any person from carrying woollen or worsted yarn twisted of two or more threads, manufactured and prepared for knitting, so as the same be *bona fide* directed for and carrying to the shop of some retailer, and so as there be not more than 14 pounds weight for any one person at the same time, and that such parcel be marked as directed by the acts requiring the marking thereof. *f. 27.*

Removing woollen or worsted yarn twisted.

And no wool, woolfelts, mortlings, shortlings, combed wool, wool flocks, or woollen bay yarn, worsted yarn, cruels, or wool slightly manufactured, hereby prohibited to be exported, shall be put on board any vessel or boat to be carried coastwise from one port in *Great Britain* to another, unless notice be given to the officer of the port from which the same is intended to be sent, of the quantity, quality, and package, together with the marks number and weight thereof, with the name of the ship and of the master or commander and the name and place of abode of the owner of such goods, and the place and port at which they are intended to be landed, and to whom consigned; and unless bond be given for the

Regulations for shipping wool, &c. to be carried coastwise.

the due lading carrying and landing the said goods, and a license taken out as directed by this act; and in default thereof, all such wool and last mentioned articles, or the value thereof, shall be forfeited, together with the ship vessel or boat in which the same shall be so laden, with their guns, ammunition, tackle, apparel, and furniture, to the person first informing. *s. 34.*

And when any wool or articles aforesaid shall be shipped to be carried coastwise, the officer at the port of shipping shall transmit notice in writing, setting forth the quantity quality and package of such goods, and the marks and numbers thereof, with the name of the ship, and of the master or commander, to the officer of the port where the same are intended to be landed, on the penalty of 10*l.* to the informer; and the bond herein before mentioned shall not be discharged, until a certificate under the hand and seal of the officer at the port of landing shall be produced and left with the person who has such bond; which certificate such officer shall transmit to the officer of the port where the said goods were shipped within seven days next after the landing thereof, under the penalty of 10*l.* to the informer. *s. 36.*

No master or commander of any vessel, who shall ship any wool to be carried coastwise, shall unpack the same, (except through absolute necessity, of which he shall make oath in writing before a justice on his arrival at the port to which such wool shall have been consigned,) on pain of forfeiting for every bag so unpacked 4*s.* to the owner of such wool. *s. 42.*

And for the better preventing of frauds in any wool or other the articles aforesaid being carried coastwise, the same shall not be shipped or landed but in the presence of the proper officers, and at lawful quays, without special leave from the commissioners of the customs, on forfeiture thereof, and also, 3*s.* for every pound weight to the informer. *s. 43.*

Exporting wool
to Jersey, Guernsey,
&c.

Nevertheless wool may be exported from *Southampton* to *Jersey*, *Guernsey*, *Alderney*, or *Sark*, for the sole use of the inhabitants thereof; so as the same may be shipped on board some vessel the property of some person residing in one of the said isles, and so as the person shipping the same deliver to the customer of the port a writing under the *hand* and *seal* (if to *Jersey*), and under the *seal* (if to any other of the isles) of the governor of the island, or his deputy, setting forth that such person is authorized to export thither such a quantity, and that he hath entered into bond to land it there, and so as it exceed not in one year, accounting from the 1st January yearly, to *Jersey* 4000 tods, *Guernsey* 2000, *Alderney* 400, and *Sark* 200 tods of uncombed wool, each tod not exceeding 32 pounds: And the customer at *Southampton* aforesaid shall keep an account of the quantity of wool by him permitted to be so laden, and shall on no pretence permit

permit a greater quantity to be laden in any year than as aforefaid, on pain of forfeiting his place, and alfo 500*l*. And if any governor of any of the faid ifles, or his deputy, fhall grant a licence for exporting any greater quantity than as aforefaid, he fhall forfeit 20*l*. for every tod thereof; the faid forfeitures to go half to the king, and half to him that fhall fue in any court of record. *f*. 16, 17.

In *Kent* and *Suffex*; Every owner of wool, within 10 miles of the fea, fhall give an account in writing in three days after fhearing of his number of fleeces, and where lodged, to the next officer of the customs; and the like notice, before he remove any part thereof, the number of fleeces and weight, and the name and abode of the perfon to whom it is difpofed, and the place whither intended to be carried; and fhall take a certificate from the officer who firft entered the fame (paying 6*d*.); on pain of forfeiting the wool, and alfo 3*s*. for every pound thereof, as if it had been a^{ct}ually exported. 9 & 10 *W. c.* 40. *f*. 3.

Regulations in
Kent and Suff-
sex.

And no perfon refiding within 15 miles of the fea in the faid counties fhall buy any wool, before he enters into bond to the king, with fureties, that all the wool he fhall buy fhall not be fold by him to any perfon within 15 miles of the fea; and if any wool be found carrying towards the fea-fide, in the faid counties, unlefs it be firft entered, and fecurity given, it fhall be forfeited, and the offender fhall alfo forfeit 3*s*. a pound. *Ib.* *f*. 4.

No wool removed from the place where it was firft lodged after fhearing, within 10 miles, fhall be lodged, after the firft removing, within 15 miles of the fea in the faid counties; on pain of forfeiting all fuch wool, if found: but if carried away, the owner fhall forfeit 3*s*. a pound. *Ib.* *f*. 5.

Every perfon that fhall lay any wool within 15 miles of the fea, and not entered as aforefaid, all fuch wool fhall be feized and forfeited; and every perfon claiming the fame (upon fuch feizure) fhall give fecurity in the exchequer, if he fhall be caft upon trial, to pay treble cofts, over and above the faid penalties. *Ib.* *f*. 6.

But by 28 *G. 3. c.* 38. After reciting that the reftri^{ct}ions in 9 & 10 *W. c.* 40. with refpect to perfons refiding within 15 miles of the fea in the counties of *Kent* and *Suffex*, were attended with great hardfhip, it is enacted, that it fhall be lawful for any buyer or manufacturer of wool to remove and lodge the fame at the warehouse or other place of the purchafer as often as fhall be thought neceffary, although fuch perfons refide within 15 miles of the fea, having firft entered into fuch bond as aforefaid, and given fuch notice of the lodging and houfing thereof as by the faid a^{ct} 9 and 10 *W.* is required. *f*. 20.

And wool thorn or housed, laid up or lodged, within ten miles of the sea-side within *Kent* and *Suffex*, may be carried to any established fair for the sale of wool, and if not sold or disposed of at such fair may be brought back to the place from whence it was taken; provided a permit be first taken out from the proper officer and accompany the same, and after being so returned, shall be subject to the same rules as before removal; and if such wool be sold, such permit shall be produced by the purchaser to the officer, who shall grant another permit to such purchaser for taking such wool from such fair. *f. 21, 22, 23.*

If any person shall counterfeit erase or alter any certificate or acknowledgement in the said recited act mentioned, or any license, certificate, or instrument hereby directed, or procure the same to be done, or knowingly make use thereof; he shall forfeit 20*l.* to him who shall sue. *f. 24.*

How wool, &c.
is to be packed
and marked.

No wool, woelfelts, mortlings, shortlings, wool-flocks, worsted-bay, or woollen-yarn, shall be packed in any other package, otherwise than packs or trusses of leather or canvas, commonly called *pack-cloths*, or in linen or woollen; and the same shall be marked on the outside with the word *WOOL* in letters three inches long; on forfeiture thereof to the person seizing the same; and also by the owner 1*s.* a pound, as the court or justices, before whom the same shall be condemned, shall direct: but not to prevent any person from packing any worsted or wollen-yarn in paper, so that such paper be fairly directed to the person for whom the same is intended, and the word *WORSTED* or *YARN*, marked thereon in letters one inch long; and that the quantity, in one paper, do not exceed 14 pounds. *f. 28.*

Wool may be
returned.

Provided always, that the justices, before whom any complaint respecting the word *Wool* not being marked as aforesaid shall be made may, if they think fit, order the wool or other articles which have been seized to be returned to the owner; but the penalty shall not be mitigated below 6*d.* for every pound weight thereof. *f. 29.*

And every person who shall pack any wool or other the aforesaid woollen or worsted articles in any box barrel cask case chest or other package, otherwise than as aforesaid, or who shall press together with any screw presses or other engine any wool or yarn made of wool, or other woollen or worsted articles hereby prohibited to be exported, into any pack truss or other wrapper, or shall put press pack or stean the same into any butt pipe hoghead chest or other cask or vessel, contrary to the true intent and meaning of this act, or cause the same to be done, or be aiding or assisting therein, shall forfeit the same, with the package thereof, and 3*s.* a pound, to the person who shall seize the same, or sue for the forfeiture; and shall, over and above the penalties aforesaid,

said, be liable to the like pains and penalties as exporters of wool. And the court and justices, by and before whom such person shall be tried and convicted shall and hereby have power and authority to punish very such offender accordingly. *§. 30, 31.*

Provided, that if the person who may have assisted in such illegal package shall, before his being apprehended for the same, appear before a justice, and make discovery of the master packer or other persons concerned in such illegal package, so that he or they may be prosecuted to conviction, such person shall not be liable to the pains and penalties aforesaid, and on the conviction of such offender shall be entitled to the wool or articles so packed. And if such master packer, or any person assisting in such package, shall before any information is made against him discover to a justice his employer, so as such employer may be prosecuted to conviction, he shall not be liable to the pains and penalties aforesaid; and shall be entitled to such wool or other articles so sent to be packed, and the person directing the same so to be packed shall, on conviction, be liable to the like pains and penalties as exporters of wool. *§. 30, 31.*

In a declaration or information against a defendant under Sect. 31. for pressing together yarn made of wool, it is not necessary to aver that "it was in such a state as might be reduced to and used as wool again." 3 T. R. 611.

Where an information for an offence against this act goes down to be tried in the country on the *nisi prius* side of the court, the court of King's Bench must give judgment, and not the judge at *nisi prius*. *Ib.*

Informations for offences against this act committed in one county are to be tried, by section 74., in another county. *Ib.*

No wool, woollen, or worsted articles aforesaid, fullers earth, fulling clay, or tobacco-pipe clay, shall be put on board any ship or other vessel, whereof any alien-born or natural-born subject not inhabiting in *Great Britain* shall be owner, or part owner thereof, on forfeiture of such vessel, to the person seizing the same: but not to extend to *lamb skins*, ready dressed and prepared, fit and useful for fur or linings. *§. 19.*

No wool, &c. to be shipped, but in vessels belonging to natural-born subjects resident in *Great Britain*.

Every person who shall keep a wharf for the reception of wool shall enter into a bond in 200*l.* not illegally to ship wool lodged with him, and on his refusal to enter into such bond shall forfeit 200*l.* to him who shall sue: and he shall also keep an account of the wool by him received and delivered, and the time when and the names of the parties, with the marks and numbers upon the sheets, and weight of such wool, and deliver a copy thereof to the officer, on pain of forfeiting 50*l.* to him who shall sue. And if any such wharfinger shall knowingly permit or suffer any such wool

Wharfingers to give bond not illegally to ship wool.

to be put on board contrary to the directions of this act, he or other person who shall be aiding or assisting therein, shall, on conviction, be liable to the like pains and penalties as exporters of wool; and the person informing shall be entitled to a reward of 40*l.* from the commissioners of the customs. *f.* 32.

Every such wharfinger shall, within seven days after he has received any wool at his wharf, give an account to the proper officer of the quantity thereof; on pain of forfeiting 10*l.* to him who shall sue. *f.* 33.

Wool, &c. put
on board ships
onward-
bound, to be
forfeited.

And no wool or articles aforesaid shall be put on board any vessel bound to parts beyond the seas, on forfeiture thereof, and also such vessel and furniture, to the informer; and moreover, the master or commander of such vessel shall in such case be deemed the exporter, and be liable to the pains and penalties in such case provided, unless immediately upon his being apprehended he discover the person who actually shipped such goods, and enter into a recognizance with two sureties before a justice to prosecute and give evidence against such shipper, so that he may be convicted thereof. *f.* 37.

Provided, that the above exception shall not extend to the masters or commanders of vessels not regularly cleared out to foreign parts; but if any wool or articles aforesaid shall be found on board, and no such clearance can be exhibited, then such master or commander shall be deemed the shipper of such goods, and shall as well as all persons on board knowing of such illicit transaction be liable to the same pains and penalties as exporters of wool; provided also, that in case any person on board, other than the master or commander, who shall on being apprehended give information so as such master or commander may be convicted, or the vessel condemned, he shall not be liable to any pains or penalties, but shall be entitled to a reward of 40*l.* *f.* 38.

Ships or car-
riages not to be
forfeited, for
having a small
quantity; if
without the
knowledge of
the owner.

But in case proof shall be made that from the smallness of the quantity of the wool or other hereinbefore enumerated articles found on board any vessel bound coastwise, or to foreign parts, which hath been regularly cleared out, or if from other circumstances it shall appear that such small quantity was on board such vessel, or in such waggon, cart, or carriage, or upon such horse or other beast, without the knowledge, privity, or consent, and without any wilful neglect or want of reasonable care of the owner, master, or other person having the charge or command of such vessel, or the care of such carriage, horse, or other beast; in every such case, no such person shall be punished, nor shall any such vessel and furniture, carriage, horse, or beast be forfeited: but nevertheless such wool and other goods so found shall be forfeited to the person who shall seize the same. *f.* 39, 40.

but the wool,
to be for-
feited.

Every.

Every person who shall insure the conveyance of any sheep wool or articles aforesaid to foreign parts, his aiders abettors and assistants, shall be liable to be punished in the same manner as exporters of wool; and the persons paying for such insurance shall be liable to the like punishments, and the articles insured shall be forfeited. And if the insurer conveyor or manager in such fraud, or person agreeing to insure convey or manage therein, shall, within six months, give notice thereof to the commissioners of the customs, so as the offender be convicted, he shall not only be acquitted of such offence, but shall have such sheep wool or other articles insured, after the charges of prosecution are deducted, and shall also retain such insurance money. And if the party insured shall within six months first make discovery thereof to the said commissioners, so as the person concerned with him be convicted thereof, he shall recover back such insurance money, and shall be acquitted from punishment. And all policies of insurance made on goods shipped as aforesaid, which shall afterwards appear to be wool or other the articles aforesaid, shall be void. *f. 45, 46, 47, 48.*

Insuring sheep or wool, intended to be exported.

And the commanders &c. of king's ships may and are required to search vessels, and seize such as have sheep, wool, or articles aforesaid on board, without a license for carrying such articles coastwise, or to the said isles; and on neglect of their duty herein shall forfeit their pay and wages, and be imprisoned for six months, and be for ever incapable of serving in any office in the navy, customs, excise, or salt duties; and any person informing of such neglect shall, on conviction of such offender, receive 40*l.* reward. *f. 49. 51.*

Commanders of king's ships, to search vessels.

But no person, except an officer of the customs, excise, or salt duties, shall examine or seize such sheep, wool, or other articles, other than in company of a constable, or other peace officer, who are required on application to attend such person. *f. 52.*

None but king's officers to seize sheep, &c. without a constable.

If any constable or other peace officer, or officer of the customs excise or salt duties, shall on application neglect or refuse to attend any person, or neglect his duty in the premises, he shall forfeit 20*l.*, half to the informer, after deducting the costs, and half to the poor. But not to extend to take away the power given to the commander of king's ships to seize vessels having therein sheep wool or articles aforesaid, and who shall not produce the coquet or certificate required. *f. 53.*

Constables and other officers to attend.

Every person acting by deputation, commission, or other instrument under the hands and seals of the commissioners of the customs excises or salt duties, shall be deemed an officer for putting this act in execution. *f. 54.*

Who shall be deemed officers.

Officers making
collusive sei-
zures.

If any officer of the revenue, or other person, shall make any collusive seizure or information, or any fraudulent or collusive agreement, whereby the owner or claimer of the goods, or any offender against this act, may avoid the penalty or punishment hereby inflicted, he shall on conviction be subject to the like pains and penalties as exporters of wool; and every information and seizure, and all proceedings thereon, shall be for the benefit only of the person (not being an accomplice) who shall first discover the same. Provided that any person concerned in such collusion, who shall first make discovery thereof within three months, and so as one accomplice be convicted, shall be acquitted and discharged of his offence; and if he be not an officer of the revenue, or owner of the goods, he shall receive a reward of 40*l.* *s.* 55.

Opposing the
execution here-
of.

Whoever shall hinder or obstruct wound or beat any person in seizing, or attempting to seize, any of the articles aforesaid intended to be exported, or carrying on board; or being armed with offensive weapons, or wearing masks, or other disguise, shall rescue or attempt to rescue any such goods which have been seized, shall, on conviction, be transported for seven years. *s.* 56.

Offering bribes.

If any person shall offer any bribe to connive at any evasion of this act, he shall forfeit 300*l.* to him who shall sue in the courts at *Westminster*. *s.* 57.

Officers neg-
lecting their
duty.

Every officer of the excise customs or salt duties, who shall neglect his duty, or compound for any ship vessel sheep or wool or other the articles aforesaid, shall be deemed an aider and abettor, and be punished as an exporter thereof. *s.* 58.

Officers may
detain persons
exporting sheep
&c.

Any such officers as aforesaid, constables, or other peace officers and their assistants, may stop arrest and detain persons found actually exporting, or attempting to export, any sheep wool or articles aforesaid, or who shall be aiding or assisting therein, and convey them before a neighbouring justice, who shall if he see cause, commit them to the gaol or house of correction till the next sessions; and the justices there shall hear and determine such offence, and on conviction punish such offender as before mentioned. *s.* 65.

and may carry
them before a
justice.

The persons conveying such offenders before a justice as aforesaid, shall, in case of commitment, enter into recognizance in 40*l.* to appear and prosecute at such sessions. *s.* 66.

Persons con-
cerned in ex-
porting sheep or
wool, informing.

And to encourage persons to discover exporters of sheep wool or articles aforesaid, the first three persons who shall have been aiding or assisting in carrying out or exporting the same, and who shall give information thereof to a justice, whereby the punishments and penalties appointed by this act may be inflicted and recovered such persons (not being the owners

owners, or part owners of such sheep, &c.) shall not suffer any of the said penalties or punishments before mentioned: provided, that if the owner of any ship or vessel, or the master commander mariner or person aiding or assisting in loading the same, knowing of such exportation of sheep, wool or other articles shall, within three months next after the knowledge thereof, or after his return into the kingdom, give the first information before the barons of the exchequer, head officer of the port where he shall arrive, or before a justice upon oath of the number and quantity of such articles so transported, and by whom where and in what vessel, and shall enter into recognizance with two sureties before a justice in 40*l.* each, to appear and give evidence of the same; then such persons shall not be liable to any penalties or forfeitures imposed for the said offence, but shall receive such benefit and advantage as is allowed by this act on conviction of offenders. *f. 78.*

And all actions, suits, prosecutions, and informations to be commenced upon this or the said act 9 and 10 *W. 3.* for any offence against either of the said acts, or to recover any penalty or forfeiture thereby imposed (except where otherwise directed), may be prosecuted in any of the courts at *Westminster*, or of *oyer and terminer*, or at the *quarter sessions*, or before *two justices* in a summary way, at the election of the seizer or informer. *f. 61.*

Penalties how to be recovered.

But no prosecution or information shall be proceeded upon before *two justices* where the seizure, penalty or forfeiture claimed shall exceed in the whole 200*l.* *f. 62.*

And such quarter sessions, or two justices, shall order such ships vessels goods carriages and cattle, so seized, as shall be by them declared to be forfeited, to be publicly sold to the highest bidder at such time and place as they shall direct; and also shall levy all penalties and forfeitures, and also such costs as shall be awarded upon appeal by distress; one moiety thereof to be distributed, (except penalties on bonds, and where otherwise directed,) to the informer, and the other moiety, after deducting the expences, to the officer assisting in making such seizure: but in case such officer made such seizure without information, then, after deducting the expences of recovery as aforesaid, the remainder shall be paid to the officer who seized the same. *f. 63, 64.*

All informations under this act shall be made upon oath, and the justice before whom made may summon witnesses at the instance of either party, who shall appear and submit in all things to be examined as witnesses in the premises. *f. 71.*

Informations to be on oath, and witnesses may be summoned.

And in all prosecutions upon this act it shall not be necessary for the prosecutor to prove, that such sheep were of the breed, or such wool of the growth of this kingdom, but the same shall be taken so to be, unless the contrary be proved by the defendants. *f. 60.*

Proof to lie on the defendant.

Offenders having no effects whereon to levy.

If it shall appear to the satisfaction of the justices before whom any offender shall be convicted of any offence for which only a pecuniary penalty is imposed, either by confession or the testimony of a witness, that such offender hath not goods sufficient to answer such penalty, then, without giving any warrant for the purpose, or if such penalty cannot be wholly levied, such justices or any other two justices upon proof thereof may commit such offender to the gaol or house of correction for any time not exceeding three calendar months, unless the whole of such penalty be sooner paid. *f. 67.*

But if any offender ordered to be committed for any offence for which a pecuniary penalty alone is hereby imposed shall, before he is actually committed, procure security to be given by two sufficient sureties to the satisfaction of such justices for the payment of such penalty and charges incident to the conviction, within fourteen days exclusive of the day of conviction, such justices may accept such security, and upon non-payment at the time stipulated such justices or any other two justices may cause the party convicted, and his sureties to be apprehended by warrant, and may commit them to the gaol or house of correction for such time as the party convicted was liable to in case no security had been given, unless such penalty and charges be sooner paid. *f. 68.*

Appeal.

Provided, that if any person who shall have been convicted think himself aggrieved by the judgment of such justices, he may appeal to the next sessions, giving within fourteen days next after such conviction notice in writing to the informer of such appeal, and at the time of making the appeal entering into recognizance with two sureties before the same justice or justices, to appear and prosecute such appeal, and to abide such order and pay such costs as shall be awarded at such sessions, who shall hear and determine the same; and in case such judgment determination or conviction be affirmed, the party appealing shall pay to the informer double costs, to be ascertained by the court. *f. 69.*

But if the appellant shall pay the penalty to such justices by way of deposit, or be committed to prison, he may appeal on entering (without sureties) into recognizance as aforesaid, or remain in prison until such appeal be determined. *f. 70.*

Taking more fees than are due.

And if any person shall receive any greater fees for any sufferance license certificate or other matter herein directed than the sum limited, he shall forfeit to the party aggrieved 5s. for every one penny which shall be so taken, and so on after that proportion. *f. 72.*

Prosecution to be in 3 years.

No person shall be liable to be prosecuted under this act, unless such prosecution be commenced in three years next after the offence is committed. *f. 77.*

III. *Concerning cards for the manufacturing of wool.*

No foreign wool cards or card wyre shall be imported, or used; nor shall any wyre be taken out of old cards, and put into new leather and boards, nor any cards made thereof be put to sale; on pain of forfeiting the same, or the value thereof, if the same be not seized, half to the king, and half to him that shall seize or sue for the same in any court of record at *Westminster*, or within any county city or town corporate, where the offence shall be committed. 13 & 14 G. 2. c. 19.

By 26 G. 3. c. 76. so much of the acts of 14 G. 3. c. 71. and 21 G. 3. c. 37. as prohibited the exportation of wool cards, or stock cards, not exceeding in value 4s. per pair, and spinners' cards not exceeding 1s. 6d. per pair, used in the woollen manufacture, is repealed.

IV. *Concerning the deceitful working of woollen cloth.*

By 49 G. 3. c. 109. s. 1, 2. the 43 El. c. 10. and 21 J. c. 18. and 13 G. c. 23. s. 3, 4. 6., relating to this head, are repealed.

If any person shall be found collecting buying or carrying in any bag, or other convenience, any such ends of yarn, wests, thrums, short yarn, or other refuse of cloth, drugget, or other woollen goods, or goods mixed with wool (stocks and pinions only excepted) the constable may by warrant of one justice search such person bag or convenience: and if any the same be found, he shall carry the offender before a justice of the peace, and on conviction before him, by confession, or oath of one witness, he shall be deemed an incorrigible rogue, and liable to be punished as such. 13 G. c. 23. s. 8. 17 G. 2. c. 5. s. 4.

Collecting, or carrying ends of yarn &c.

M. 29 G. 3. R. v. Terrett. A rule having been obtained to shew cause why a *certiorari* should not issue, directed to the justices of the peace for the county of *Gloucester*, to remove all orders and adjudications concerning a certain judgment and conviction of *Mark Terrett*, by the Rev. *Geo. Hayward*, a justice for that county, for buying 15lbs. of *Spanish ends of yarn* *fresh scribbled*, contrary to the statute; cause was accordingly shewn. The adjudication of the *Easter* sessions for *Gloucester* (in 1788), after reciting such conviction, and that it was returned to the sessions, and also reciting that the defendant was on *Feb. 7, 1788*, committed by Mr. H. to the house of correction till the general quarter sessions at *Easter*, for buying of one *Evans* 7lbs. of *Spanish ends*, proceeded thus;—"And which conviction, on examination of the circumstances of the case, hath been by this court ordered to be quashed; and they order that the conviction for buying the 15lbs. of yarn of *Burrough* be confirmed; and that the defendant be and he is hereby adjudged an incorrigible
rogue

rogue, and that he be kept and detained to hard labour in the house of correction of this county for the space of two years, to be computed from this sessions." By the 12 *Ann.* *§. 2. c. 23. §. 6.* (*ante tit. Vagrants*), incorrigible rogues are to be committed by one justice to the next sessions, when they are to be whipped three times, and kept to hard labour for such further time as the sessions shall think fit. The stat. 13 *G. 1. c. 23.* for the better regulation of the woollen manufacture, which created several penalties for certain offences therein specified, gave an appeal (by *§. 6.*) to the sessions, but enacted that neither the order of sessions, nor the proceedings of the justices' act of sessions, should be removed by *certiorari*. The 8th section of that statute directs that any person who shall be convicted of buying ends of yarn before one justice, shall be deemed an incorrigible rogue, in the manner directed by 12 *Ann. §. 2. c. 23.* After passing this latter act, the 12 *Ann.* was repealed by the 13 *G. 2. c. 24.* which was itself repealed by 17 *G. 2. c. 5.* The 5th sect. of this last statute declares that all end-gatherers offending against the 13 *G. 1. c. 33.* shall be deemed incorrigible rogues within the meaning of the act; and sect. 9. enables the justice at the next sessions to order incorrigible rogues to be kept in prison for any time not exceeding two years, nor less than six months from the sessions; and this act does not take away the *certiorari*. In support of the rule, it was insisted that all proceedings, subsequent to the conviction before the justice, were under the 17 *G. 2.*, which did not take away the *certiorari*, and the provision in 13 *G. 1.* which says the proceedings under that act shall not be removed by *certiorari*, cannot be incorporated in the latter act; for express words only can take away a *certiorari*; whereas, if it were decided that the *certiorari* was taken away by the 17 *G. 2.* which expressly notices offences against the 13 *G. 1.*, but is silent respecting the *certiorari*, it would be taking away a *certiorari* by implication. On the other side it was insisted that the 17 *G. 2. c. 5.* only increased the punishment; and that the provision of the 13 *G. 1.* respecting the *certiorari* applied both to the 17 *G. 2.* and to the 12 *Ann. §. 2. c. 23.*; and that if the argument, urged in support of the rule, were entitled to any weight, it would go to the length of saying that no *certiorari* could be taken away but by the same act of parliament that inflicts the punishment. Lord Kenyon Ch. J. said, the court were of opinion that in the proceedings, as far as they were under the 17 *G. 2. c. 5.* the *certiorari* was not taken away; but that they were clearly of opinion that it was on the order of the magistrate under the statute 13 *G. 1. c. 23.* They therefore made the rule absolute for a *certiorari* to remove the order of sessions only. 2 *T. R.* 735.

V. Concerning the fulling of cloth.

Every fuller, in his craft and occupation of fulling, rowing, or tayselling of cloth, shall use taysels, and no cards, deceitfully impairing the said cloth, on pain to yield to the party grieved his double damage; and every justice of the peace mayor master warden bailiff portreeve constable of hundred and steward of leet, in their respective liberties, may hear and determine the same, and commit the offender to the next gaol till payment. And also any person not grieved may make information to any such justice mayor master warden bailiff portreeve or steward in which case the offender shall forfeit to the king, or to such person as shall be entitled to fines or amercements within their jurisdiction, 3s. 4d.; and they may make process against the party in like manner as justices of the peace may do for sureties of the peace, without any fee to be taken for the execution of their offices in this behalf. 4 Ed. 4. c. 1. f. 6.

And no cloth, not fulled, shall be exported; on pain of forfeiting the same, half to the king, and half to him that will sue. 7 Ed. 4. c. 3.

By the 28 G. 3. c. 38. the exportation of fullers earth and fulling clay is prohibited, except, &c. f. 1. [See second head under this title.]

VI. Concerning the searching of cloth, and therein of the length, breadth, and weight thereof.

By the 3 & 4 Ed. 6. c. 2. 5 & 6 Ed. 6. c. 5. 4 & 5 P. & M. c. 25. 39 El. c. 20. 43 El. c. 10. 4 J. c. 2. 21 J. c. 18. several provisions relating to this branch of the woollen manufacture were enacted; but they were, together with many others relating to the same subject, repealed by the 49 G. 3. c. 109.; which last act also repeals the 3 J. 1. c. 16. f. 2, 3, 4.

For the measuring of cloth, the statutes generally provide that the yard shall consist of a standard yard, and the breadth of a man's thumb besides; or 37 inches in the whole.

Yard and inch.

VII. Concerning the dyeing of cloth.

By 49 G. 3. c. 109. the 3 & 4 Ed. 6. c. 2. and the 36 E. 6. c. 6. are repealed.

For the encouragement of dressing and dying of cloth, no person shall export any white woollen broad cloth until he have paid duty of 5s. for every such cloth; on pain of forfeiting the same or the value thereof, half to the king, and half to him that shall seize inform or sue. 6 Ann. c. 8.

Exporting white woollen cloth.

By the 23 G. 3. c. 15. If any person shall dye any woollen goods, for mather blacks, and not being first dyed with woad and indigo, he shall forfeit for every piece of long Hocking bays, containing 70 yards, or upwards, 5*l*.; of Col-

chester

cheester bays or short bays, containing 35 yards or upwards, 50s.; for every piece of other woollen goods, 6d. a yard.

And if any person shall dye any woollen cloth for woaded black, the same not being woaded throughout, he shall forfeit 2s. a yard.

And all woollen goods mathered black shall be marked with a red rose and a blue rose; and woaded black shall be marked with a blue rose only: on pain that every person offending herein shall forfeit 4l.

Using logwood
in dying blue.

If any person shall use any logwood or logwood liquor in dying any woollen goods blue, he shall forfeit 20l. for each piece.

Searchers to be
appointed and
sworn.

And the company of dyers in *London*, and elsewhere the justices in sessions, shall appoint searchers; who shall take the following oath; "*I do swear that I will faithfully impartially and honestly execute and perform the trust reposed in me as a searcher by virtue of an act of parliament made in the 23d year of the reign of his majesty king George the third, for rendering more effectual the provisions contained in an act of the 13th year of king George the First, for preventing frauds and abuses in the dyeing trade.*" (Which act of 13 G. 1. is repealed by the same act of the 23 G. 3.)

And if any person shall obstruct any searcher, he shall forfeit 10l.

Penalties how
to be recovered
and applied.

Prosecution for offences against this act shall be commenced within forty days. And the penalties, exceeding 5l. shall be recovered in the courts at *Westminster*; those not exceeding 5l. shall be recovered before one justice: Which justice shall, on proof of the offence by confession or oath of one witness, levy the penalty by distress and sale; if sufficient distress cannot be found, the offender shall be committed to the house of correction not exceeding three months. The said penalties, if in *London*, shall go half to the informer, and half in such manner as the said company shall appoint; elsewhere, the whole to the informer.

Appeal.

If any person is aggrieved, he may appeal to the next sessions.

VIII. Concerning tenters, and the stretching of cloth.

The 43 *El. c. 10.* is repealed by 49 G. 3. c. 109.

Stealing off
tenters.

If any person shall feloniously cut and take, steal, or carry away, any cloth or other woollen manufacture from the rack or tenter *in the night time*, he shall be guilty of felony without benefit of clergy. 22 C. 2. c. 5. s. 3.

But because it is often difficult to prove the owner's property in the cloth, therefore by the 15 G. 2. c. 27. it is enacted that if any cloth, or woollen goods on the tenters or woollen yarn, or wool left out to dry, shall be stolen *in the night*, any justice on complaint made in ten days by the

the owner may issue his warrant to any peace officer in the day time to enter into and search the houses, out-houses, yards, gardens, or other places belonging to the houses of every person whom such owner shall upon his oath declare to such justice he suspects to have stolen, taken away, or received the same; and if the officer shall find any such goods which from the oath of such person he shall have reason to suspect to have been stolen, he shall apprehend the person in whose custody or possession the same shall be found, and carry him before a justice; and if he shall not give a satisfactory account how he came by the same, or in a convenient time, to be set by the justice, produce the party of whom he had the same, or a credible witness to depose on oath his property therein, he shall be convicted of stealing such goods; and shall for the first offence forfeit to the owner treble value, and in default of payment thereof in the time appointed by such justice he shall issue his warrant to levy the same by distress and sale; and in default of distress, shall commit him to the common gaol where he shall be apprehended for three months, or till paid; for the second offence treble value, and six months' imprisonment; for the third offence, such justice shall commit him till the assizes, and if he shall be there convicted in like manner, he shall be guilty of felony, and transported for seven years. But persons aggrieved (except on the third conviction) may appeal to the next general quarter sessions, whose order therein shall be final. But nevertheless, this shall not alter any former law in force, for stealing or receiving such cloth or goods, except where the proof is laid on the offender.

IX. Concerning the dressing of cloth.

No woollen cloth shall be exported till it be barbed, rowed, and shorn; on pain of forfeiting the same, half to the king and half to him that will sue. 3 H. 7. c. 11. Exportation.

X. Concerning mixed or medley broad cloth in particular; especially in Gloucestershire, Wiltshire and Somersetshire.

It is provided by the 10 An. c. 16. and 1 G. 2. c. 15. that nothing therein shall extend to any cloth made in *Yorkshire*: By which acts it is also further provided as follows; Mixed or medley broad cloth.

The fulling miller shall take an oath before a justice dwelling near such mill that he will well and truly perform the measuring all mixed or medley broad cloth fulled at his mill. Fulling miller to measure.

In order to which he shall have a table 12 feet long, and three feet broad, whereon the cloth shall be doubled and laid plain, with the length of a yard marked thereon; on which he shall measure the same when fulled and wet; and shall seal it.

statutes of this realm, and according to the best of my skill and knowledge; so help me God.

Inspector's
duty.

And they shall inspect the mills, shops, houses, and tenter grounds of persons concerned in milling and manufacturing mixed or medley woollen broad cloth; and shall measure the cloth on the tenter; and such inspector shall stamp his name on a lead seal, to be furnished by the maker of the cloth, and affix the same on the head end of such cloth, and shall register in a book the clothier's, millman's, or other person's name, and the number, length, and breadth of every such cloth; and shall at every quarter sessions give in a copy of such register, with an account of the forfeitures levied.

The millman sending home such cloth before inspected shall forfeit 40s. in like manner.

Persons refusing entrance to the inspector shall forfeit 10s. in like manner.

The inspector acting against his oath shall forfeit 20s. in like manner.

Inspector's salary.

And the said justices shall allow a salary to each inspector, not exceeding 30s. a year; for the raising of which every maker shall pay to the inspector 2d. for every such cloth, before they are sent from the mill; who shall pay the same every three months or oftener to the county treasurer, to be applied by the sessions towards such salaries.

XI. Concerning the Yorkshire manufacture in particular.

Narrow woollen
cloth.

By the 11 G. 2. c. 28. The justices at the *Easter*-sessions yearly for the *West Riding* of the county of *York* shall appoint searchers, such as have served apprenticeships to the trade of making narrow cloth, or have exercised such trade three years, and appoint them salaries; Who shall be sworn before a justice well and truly to execute the office of searching such narrow woollen cloth. And in case of the death or sickness or other disability of a searcher one justice living near may appoint another till the next sessions, to be there confirmed or another appointed. 11 G. 2. c. 28.

f. 3. 4.

Which said cloth may be made of what length and breadth the maker shall think fit. *f. 13.*

He shall weave or set in the head of every piece the first letters of his name; on pain, in conviction in one month, of forfeiting 20s. *f. 1.*

The same shall be measured when wet at the mill; both by the millman and the searcher, who shall measure it down the middle for the length, and within the lists for the breadth. *f. 1.*

The millman shall rivet at one end a seal of lead, to be furnished by the clothier, and shall stamp his name thereon at length, and the length and breadth in figures. *f. 1.*

searcher shall also affix a seal of lead at the other end, with his name, with the length and breadth in like manner. *f. 1.*

And they both shall keep books, wherein they shall enter the day and year when milled, the name and place of abode of the owner, and the length and breadth; and shall suffer the buyer to inspect the same. *f. 1.*

The miller, or searcher offending herein, shall on conviction in eight days after the cloth is removed from the mill forfeit *5l.* *f. 1, 2.*

If any person shall counterfeit the seal or mark, he shall (on conviction in one month) forfeit *40s.* *f. 7.*

A sum not exceeding *3d.* for each cloth shall be paid by the owner before it is carried from the mill to such persons as the justices at *Easter* sessions shall appoint, to pay the searchers' salaries, and other expences of the act: And the persons so appointed may detain the cloth at the mill till paid; and if not paid in eight days after demand, such person may sell the same and detain the money, rendering the overplus on demand. *f. 8, 9.*

And the owner shall measure the cloth when brought from the mill before it is set on the tenter; and if it is less than the stamp, or by lying wet is become less, he shall carry it to the millman and searcher to be restamped, on pain of *5s.* on conviction in one month after the offence. *f. 5.*

The owner may stretch the same one inch in a yard in length, and two inches in every three-quarters in breadth, and so in proportion: but if any person stretch it further, he shall forfeit for the first half-yard in length, or first inch in breadth overstretched, *10s.*; and for every other half-yard in length, or half-inch in breadth, *20s.* *f. 6.*

The conviction to be before one justice, not being a dealer in cloth, on oath of one witness, reasonable notice being first given to the person accused. *f. 10.*

The forfeitures (if not paid in ten days after notice of the conviction given at the offender's last place of abode, and if he shall not appeal,) to be levied by the constable by warrant of a justice by distress, rendering the overplus on demand, charges of distress and sale being first deducted; to be distributed (after deducting the charges of conviction,) half to the informer, and half to the treasurer for the expences of carrying the act into execution; for want of distress, to be committed to the house of correction to hard labour for one month. *f. 10.*

Persons aggrieved may appeal to the next quarter sessions to be held after 14 days from the conviction, giving 10 days' notice to the informer. And the justices there may award costs. *f. 12.*

By the 5 G. 3. c. 51. (which extends to all woollen cloth made in the said *West Riding*, except such narrows as are provided
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vided for by the aforesaid act of the 11 G. 2. c. 28.) and by the 6 G. 3. c. 23. (which extends to all such woollen cloths, except as before excepted, and except such woollen goods as are made for blanketing, and striped duffeled blankets,) it is enacted as follows ;

The justices for the said *West Riding* (not being dealers in woollen cloth, nor occupiers of any fulling mill,) shall, at the *Bradford* midsummer sessions yearly appoint so many men as they shall think proper (having been brought up in the manufacture of woollen cloth in the said riding, and under 60 years of age,) to be *searchers* or measurers of cloth at the fulling mills, and allow them salaries. 5 G. 3. c. 51. s. 2. 6 G. 3. c. 23. s. 1. 18.

And shall also appoint *inspectors* (not exceeding 12 in number) of broad woollen cloths, and of the work shops, tenter-grounds, and warehouses ; with salaries, not less than 20*l.* a year. 5 G. 3. c. 51. s. 7.

And also *supervisors* (not exceeding four in number) of the conduct and behaviour both of the searchers and inspectors ; with salaries, not less than 40*l.* a year, and 10*l.* more, if their duty require them to keep a horse. *Id.*

All of them before they enter upon their office to be sworn before a justice, that they will well and truly to the best of their skill and power execute such office. *Id.*

And shall also give bond to the treasurer with a surety in the penalty of 50*l.*, duly to account for and pay the money by them respectively to be received in the execution of their office. 6 G. 3. c. 23. s. 9.

Provided always, that if any of the officers so appointed shall keep a public house for selling ale beer or other liquors, or be concerned in the making buying or selling any wool, woollen manufactures, or goods commonly made use of in dying ; or be guilty of any misbehaviour or neglect of duty ; and shall be convicted thereof by the oath of one witness before two justices ; it shall be lawful for the justices at the next sessions, after such conviction, on producing the same or due proof thereof to discharge such officer, and appoint another in his room. s. 17.

And if any of the said officers shall die, or become incapable by sickness or other accident within the year, one justice near the place may appoint another till the end of the year, or during such sickness or incapacity. s. 10.

The maker of cloth shall weave or sow into the head of every piece by him made his name and place of abode, either in distinct letters or words, or in some common or known abbreviations. 5 G. 3. c. 51. s. 18. 6 G. 3. c. 23. s. 13.

At the fulling mill, for every yard of cloth exceeding 58 yards, whether in one cloth or two short cloths of ends, which shall be milled in one week at one time, the fullers shall

shall pay to the miller an halfpenny for every yard above 58, over and above the usual price for milling a stockful of 58 yards. 5 G. 3. c. 51. f. 19.

And all disputes between clothiers and millers, relating to the wages for milling, shall if such miller desire it and the matter in dispute do not exceed 40s. be determined by one justice; who may, on complaint, summon the parties, adjudge damages, and give costs not exceeding 10s. and levy the same by distress if not paid in ten days. f. 20.

The searchers shall at the fulling mills measure the cloths and ends or half ends there milled within six and not sooner than four hours after the same shall have been streamed or washed in the goit or mill stream; and if the same shall not be streamed or washed, then within four hours after they come out of the stock. f. 3.

Such searcher shall, on one end of every such cloth, before it be carried from the mill, affix and rivet a seal of lead to be furnished by the maker, and stamp in words and figures upon every such rivet his name and the name of the mill where he is stationed; and upon the residue of the seal the length and breadth of such cloth, together with the number of each of such cloths milled at such mill successively, beginning at number 1, at the 25th of *March* yearly, and so continuing progressively to the 25th of *March* next following. f. 3. 6 G. 3. c. 23. f. 2.

And shall enter in a book, to be provided by the treasurer of the said riding, the name and place of abode of the maker, the colour or sort of the cloth, and the length, breadth, and number on the seal. 5 G. 3. c. 51. f. 3.

And shall give once a month to the supervisor within the district an account of all the cloths milled, measured, and stamped at such mill. *It.*

The owner shall pay to the searcher, for the seal of every whole cloth 35 yards long or upwards, 6d.; for every end or half cloth less than 35 yards and more than 30, 4d.; less than 30 yards 3d. Which sum shall be accounted for by such searcher to the said treasurer. *It.*

Searcher making default shall, for the first offence, forfeit 20s.; for the second offence he shall forfeit his office. f. 4.

If the maker shall take away his cloth before it is measured and stamped within the times before mentioned; or before the money be paid for stamping the same; or shall take away his cloth after nine o'clock in the evening, or before five in the morning, unless the same be measured and stamped; he shall forfeit 20s. f. 5.

And if any inspector hath reason to suspect that any cloth shall be in the possession of any merchant dresser or cloth-broker, which hath not been truly stamped at the fulling mill, he may give notice thereof to such person; which said person shall give two hours notice to the said inspector. 3 G 2

tor of the time when he intends to put the said cloth into water, in order that he may attend the wetting and measuring thereof; and if such person shall put the same into water without such notice to the said inspector, he shall forfeit 20s. And if any supervisor or inspector shall refuse or neglect to attend for measuring and stamping any cloth or end of cloth as aforesaid for two hours after notice given to him, he shall forfeit 20s. 6 G. 3. c. 23. s. 7, 8.

The maker of cloth called broad cloth shall, after it is brought from the mill, and before it is put upon the tenter, measure the same, and affix and rivet a seal of lead upon the other end, and stamp thereon the length and breadth. 5 G. 3. c. 51. s. 6.

The owner of every tenter shall measure the said tenter, and mark in figures the true length in yards (at 37 inches to the yard), beginning at number one, and marking every yard distinctly on the top bar on the fore-side; on pain of 5l. s. 22.

If any person shall stretch any cloth more than one yard (consisting of 37 inches) in every 20 in the length, or more than one inch in 12 in the breadth, beyond the mark stamped by the searcher inspector or supervisor, who last measured the same; he shall forfeit, for the first half-yard overstretched in length, 5s.; and for every quarter of a yard above such half-yard, 10s.; and for the first inch overstretched in breadth, 5s.; and for every inch above the first, 10s. 6 G. 3. c. 23. s. 15.

If any person shall willingly take off alter or counterfeit deface or cut out any seal affixed on the said cloth as aforesaid, or the figures or letters thereon stamped or therein woven or sewed, before the cloth shall be put in papers for the press, or into the frizing mill; or if any inspector or supervisor shall find any cloth without such seal as aforesaid, or find such seal defaced, counterfeited, or altered (unless accidentally lost, or maliciously taken off); or shall find any cloth which shall appear by the stamp affixed thereon to be overstretched, or the loom mark specifying the name and place of abode of the maker to be cut or altered; every person so offending, or the merchant, dresser, clothier, or owner, in whose custody such cloth shall be found, shall forfeit, not exceeding 40s. nor less than 20s. 6 G. 3. c. 23. s. 11.

By 49 G. 3. c. 109. s. 2. the 5 G. 3. c. 51. s. 23. is repealed.

It shall be lawful for any person, in the striking or phining of cloth upon the tenters only, to use cards of wire, called fine hatter's cards, for the better laying the wool, and manufacturing the cloth without being subject to the penalty. 6 G. 3. c. 23. s. 16.

The inspector or supervisor may, in the day-time, enter into any shops out-houses tenter grounds or warehouses to

search; and any person obstructing the same shall forfeit 10*l*.
5 G. 3. c. 51. *§* 12.

The supervisors shall be daily employed in visiting the mills, tenter grounds, work-shops, and places within their districts, and every such supervisor shall measure and stamp with a seal of lead having his name impressed so many of the said cloths as he conveniently can; and keep an account thereof; and transmit the same, together with the accounts received by him from the searchers, to the justices at every quarter sessions. *§* 8.

And if the inspector or supervisor shall find any cloth, or end or half cloth, falsely stamped by the searcher, above one inch in breadth in more than one third part of the length thereof, or above half a yard in length, he shall within seven days give information thereof to a justice; and such searcher shall, on conviction before such justice, forfeit 10*s*. *§* 9.
6 G. 3. c. 23. *§* 3.

Provided, that it shall not be lawful for any inspector or supervisor to enter into any house, ware-house, or out-house, of any merchant, dresser, or other dealer in cloth (unless such places shall be made use of for dressing, tenting, or keeping of wet or undressed cloth) under pretence of searching for or examining any woollen cloth, or to search or examine any cloth, after the same shall be put up in papers for pressing, or sent to be frized, or otherwise hath been fully manufactured, or fitted for exportation or home consumption. *§* 10.

If the maker shall expose any cloth to sale without such mark as aforesaid, or without seals as before directed, he shall forfeit 20*s*. for every such piece. *§* 18.

The buyer, if he suspect any fraud, may within 40 days after the sale and delivery of such cloth (and before the same shall have been raised, rowed, dressed, dyed, or put in water,) put the same into cold water not exceeding four hours, and after the same shall be fully wet, shall hang the same across a plain rail or horse-tree, not less than two hours, nor more than four; and then immediately cause the same to be measured by some sworn searcher, inspector or supervisor: And if there shall be found a less quantity in length or breadth in more than one third part of the length thereof than is mentioned on any of the seals, the said searcher, inspector, or supervisor who last measured the same, shall within three days give information thereof to a justice; and the searcher or supervisor who affixed such false seal, being convicted thereof before such justice, on the oath of such searcher, inspector, or supervisor who last measured the said cloth or of any other credible witness, shall forfeit for the first inch in breadth or half yard in length that such cloth or end of cloth shall fall short, 5*s*.; and for every other inch in breadth or half yard in length the further sum of 10*s*. And if such

searcher, inspector, or supervisor, who last measured the cloth shall not in three days give information as aforesaid, he shall, on conviction before such justice, forfeit 40s. and his office. 6 G. 3. c. 23. s. 4.

Where such false seal shall be found, the searcher, inspector, or supervisor who last measured the same, shall affix and rivet a new seal, with his name on the rivet, adding the word inspector, or supervisor; and on the seal the true length (accounting 37 inches to the yard in length), and the breadth, between the lifts, in inches. And this shall be the rule in payment; except that (in order to discourage such fraud) the buyer may retain out of the price double the value of so much as was overstamped; unless the maker shall, within three days after notice of such deficiency take the cloth again, and repay the purchase money, together with reasonable expenses. s. 5.

If the feller or buyer shall suspect that this last admeasure-ment is false, he may in seven days give information thereof to a justice: And if such searcher, inspector, or supervisor, who last measured the same, shall be convicted of such offence by the oath of one witness before such justice, he shall, for the first inch in breadth or half yard in length falsely measured as aforesaid, forfeit 20s.; and if such cloth or end of cloth shall exceed or fall short more than two inches in breadth, or one yard in length of the measure so stamped by him, he shall forfeit his office. s. 6.

Any person, against whom such information shall be made by any merchant, owner, or dresser of cloth, for false sealing or stamping, may within two days after notice given to him of such information go to the house of such merchant, owner or dresser, and request to see the cloth, and examine whether the charge against him be just, and whether any fraud hath been committed by such merchant, owner, or dresser: And if any merchant, owner, or dresser, shall refuse to permit him to see or examine such cloth (unless the same shall before that time be put in papers for dressing, or sent to be frized,) the prosecution shall cease; and if such buyer shall refuse, he shall lose all benefit of deduction out of the price as aforesaid. s. 12.

And the treasurer may deduct the sums forfeited by the searchers, inspectors, and supervisors, out of their salaries, 5 G. 3. c. 51. s. 16.

Informations of offences (not otherwise directed) shall be made (on oath, 5 G. 3. c. 51.) within ten days after the offence shall be discovered; the same to be heard and determined, on the oath of one witness, before one justice (not being a dealer in woollen cloth, nor occupier of a fulling mill;) and the penalties, after deducting charges of the conviction, to be distributed, half to the informer and half to the treasurer of the said *West Riding*; the part belonging to

Penalties how
to be levied
and applied.

to the treasurer shall be received by the justice, and by him paid to an inspector or supervisor, and the said justice shall within three months send an account thereof to the said treasurer. 6 G. 3. c. 23. s. 19.

If any offender shall for ten days after conviction, and notice thereof given to him at his dwelling house or last place of abode refuse or neglect to pay any forfeiture by him incurred; or shall not give notice of appeal; then, and not before, the said justice or any other such justice (on certificate of the conviction sent to him) shall issue his warrant of distress to the constable of the town or place, or bailiff of the liberty, where the offender dwells, requiring him to levy the same by distress; and where no sufficient distress can be had, the said justice shall commit him to the house of correction for any time not exceeding three months. s. 20.

Persons aggrieved by any order or determination of such justice may appeal to the next sessions, which shall not be held within 14 days after the cause of appeal shall arise, giving ten days' notice: And the sessions may allow costs to either party, to be levied and paid as usual in cases of appeal from any order to the justices to the sessions. s. 21.

Appeal.

And the justices, inspectors, and supervisors, shall return to the sessions from time to time an account in writing of all convictions that have happened within their knowledge, and of the penalties levied and made payable to the treasurer: And the inspectors and supervisors shall pay to the treasurer, within three months after receipt thereof, all sums by them received on account of such convictions. And every person neglecting or refusing to transmit such account within 20 days next after any such sessions, or to pay such sums within three months after receipt thereof, shall on conviction on the oath of one witness before two justices forfeit 10l. s. 22.

Convictions to be returned to the sessions.

The money in the treasurer's hands, received on account of the duties and forfeitures, shall after paying the expences of the acts be applied for payment of the salaries of the searchers or measurers, inspectors or supervisors, in such manner and proportion as the said justices at their midsummer sessions yearly shall appoint. s. 24.

Money in the treasurer's hand.

The justices after payment of the charges of the acts, at the said midsummer sessions yearly may make order for increasing or diminishing the rates to be paid for measuring, stamping, and sealing, so as never to exceed the rates above specified. s. 25.

Sessions to settle rates.

XII. Concerning the burying of the dead in woollen cloth.

By the 30 Car. 2. c. 3. (which is required to be given in charge at the assizes and sessions) no corpse of any person (except those who shall die of the plague) shall be buried in

All persons to be buried in woollen.

any shirt, shift, sheet, or shroud, or any thing whatsoever made or mingled with flax, hemp, silk, hair, gold, or silver, or in any stuff or thing, other than what is made of sheep's wool only; or be put into any coffin lined or faced with any sort of cloth or stuff, or any other thing whatsoever, that is made of any other material but sheep's wool only. *f. 3. 9, 10.*

Minister to keep
a register.

And the ministers shall take an exact account, and keep a register book, to be provided at the charge of the parish, and make a true entry therein of all persons buried in their respective parishes or precincts, or in such common burial places as their respective parishioners are usually buried. *f. 4. 7.*

Regulations
respecting bury-
ing in woollen.

Within eight days after the interment, some relation of the party deceased, or other credible person, shall cause an affidavit (A) in writing to be made under the hands and seals of two or more credible witnesses, setting forth that such deceased person was not put in, wrapt or wound up or buried in any shirt, shift, sheet or shroud, made or mingled with flax, hemp, silk, hair, gold, or silver, or other than what is made of sheep's wool only, or in any coffin lined or faced with any cloth, stuff, or any other thing whatsoever, made or mingled with flax, hemp, silk, hair, gold, or silver, or any other material but sheep's wool only; and shall bring the same and make oath thereof before the mayor, or a justice of the peace, or master of chancery, [and if no justice shall reside or be to be found in the parish where the party is interred, then to any parson, vicar, or curate, in any other parish within the county, 30 C. 2. c. 1.] who shall administer the oath and attest the same under their hands upon such affidavit, *gratis. f. 4, 5.*

And shall (within eight days aforesaid) bring the same so signed and attested to the minister; who shall enter the same in the register. *f. 4. 7.*

If no relation of the party buried, or other person, shall bring such affidavit as aforesaid, then the goods and chattels of the party deceased shall be liable to the forfeiture of 5*l.* to be levied by distress, by warrant of the chief magistrate in any town corporate, or of any justice of the peace; or in default thereof, by like distress of the goods of the person in whose house the party died; or of any that had a hand in putting such person into any shirt, shift, sheet, shroud, or coffin, or did order or dispose the doing thereof; and in case such person were a servant, and died in the family of his or her master or mistress, the same shall be levied on the goods of such master or mistress; and if such person died in the family of his or her father and mother, then the same shall be levied on the goods of his or her father or mother: which said forfeiture shall be levied upon and allowed out of the estate of the said deceased person, before

before any statute, judgment, debt, legacy, or other duty whatsoever. *f. 4.*

In such case where no affidavit shall be brought in eight days as aforesaid to the minister where the party was buried; he shall forthwith give or cause notice (B) thereof to be given in writing under his hand to the churchwardens or overseers; on pain of 5*l.* with full costs (provided the suit be commenced in six months), one-fourth to the king, two-fourths to the poor where such person offending dwells, and one-fourth to him that shall inform and sue. *f. 5, 6.*

And moreover, where no such affidavit shall be brought to him within such time, he shall enter a memorial thereof in the said registry against the name of the party interred; and of the time when he certified the same to the churchwardens or overseers. *f. 7.*

The said churchwardens or overseers shall within eight days after such notice (on like pain as the minister) repair to the chief magistrates, if such party were buried in a town corporate, or else to a justice of the peace; which said justice or magistrate, on certificate from such minister, shall (on the like pain) forthwith grant a warrant (C) for the levying of the said forfeiture on the goods of the parties before mentioned, rendering the overplus, all reasonable charges being first deducted; half of which shall be to the poor, and half to the informer, *f. 5.*

And when the overseers shall account, they shall give an account of the name and quality of every person interred within their parish from the time of their former account, and of such certificate as came to their hands from such minister, and of their levying the penalties, and of their disposal thereof; on pain of 5*l.* to be levied by distress, by warrant of the justices or two of them, to whom they shall account. And no overseers' account shall be allowed, until they shall have therein accounted for the burials as aforesaid. *f. 8.*

XIII. Against importation of woollen cloth, and encouragement of the exportation of woollen manufactures.

No foreign woollen cloth shall be imported, on pain of forfeiture, and further punishment at the king's will. *11 Ed. 3. c. 3. 4 Ed. 4. c. 1. f. 7.* Importation.

Woollen manufactures shall be exported custom free. *11 & 12 W. c. 20.* Exportation.

XIV. Privileges granted to woolcombers.

By 49 G. 3. c. 109. *f. 5.* Every person who shall have served an apprenticeship to any branch of the woollen manufacture, or is by law entitled to exercise the same, and also his wife and children, may set up and exercise such trade; May set up trades.

Not removeable
until charge-
able.

or any other trade or business which they are apt and able for in any town or place, without suit or molestation by reason of using such trade; and shall not, during the time they exercise such trade, be removeable to their place of settlement, by virtue of any law now in being, relative to settlements, until they become actually chargeable. And if any such, or his wife or child shall be prosecuted for exercising any such trade as aforesaid, on his making it appear that he has served a legal apprenticeship to the said trade, or is the wife or child of any person who has served such apprenticeship, he shall, upon the general issue pleaded, be found not guilty, and shall have double costs. *f. 1.*

May be sum-
moned to make
oath of their
settlement.

By *f. 6, 7.* Two justices, where any such person or his wife and family shall exercise such trade, may summon every such person before them, and examine him on oath concerning the place of his last legal settlement, who shall obey such summons, and make oath accordingly; and such justices shall give an attested copy of such affidavit, to made before them, to the person making the same, in order that he may produce it when required, which attested copy shall be admitted as evidence as to such settlement before the justices at any sessions; and if such person, or his wife or child, shall again be summoned to make oath as aforesaid, then, on producing such attested copy, he shall not be obliged to take any other or further oath, but shall leave a copy of such attested copy, if required. *f. 2.*

Provided, that this act shall not prejudice the universities. *f. 8.*

And by *f. 9.* Not to extend to the city of *London.*

And by *f. 3.* This act which repeals so much of 5 *El. c. 4.* as relates to apprentices to the woollen manufacture, shall not annul any contract of apprenticeship whereby any person shall have bound or shall bind himself as an apprentice in any of the occupations thereof, for any period allowed by law; Provided always, that such apprenticeship shall not be required as a previous qualification for exercising any branch of the woollen manufacture, either as a master or a journeyman.

N. B. By *f. 4.* of this act, it is enacted, that nothing herein shall revive any act repealed by any act or part of any act repealed hereby.

A. Affidavit for burying in woollen.

Westmorland. **B**E it remembered, that on the _____ day of _____ A. W. of _____ yeoman, and B. W. of _____ yeoman, being two credible persons, do make oath, That A. D. late of _____ in the parish of _____ in the county aforesaid, on the _____ day of this present month of _____ was not put in wrapt or wound up or buried in any shirt, shift, sheet, or shroud, made or mingled with flax, hemp, silk,

silk, hair, gold, or silver, or other than what is made of sheep's wool only, or in any coffin lined or faced with any cloth, stuff, or any other thing whatsoever made or mingled with flax, hemp, silk, hair, gold, or silver, or any other material but sheep's wool only.

A. W.

B. W.

Sworn before me, being one of his majesty's justices of the peace for the said county [or, vicar of — in the said county, there being no justice of the peace residing (or to be found) in the said parish of —] the day and year aforesaid.

J. P.

B. The minister's notice of affidavit of burying in woollen not being brought.

Westmorland. } To the churchwardens and overseers of the poor of the parish of — in the said county.

I A. M. minister of the parish of — aforesaid, in the county aforesaid, do hereby give you notice that on the — day of — the body of A. D. was buried within the said parish, and that no person whatsoever hath brought to me any affidavit pursuant to the statute made for burying in woollen. Witness my hand the — day of —

C. Warrant to levy the penalty for not burying in woollen.

Westmorland. } To the constable of —

WHEREAS it duly appears unto me — one of his majesty's justices of the peace for the said county, that A. D. late of — deceased, on the — day of — was buried within the parish of — in the county aforesaid, and that no affidavit hath been brought within eight days afterwards to the minister of the said parish that the said A. D. was buried in no other material but sheep's wool only, pursuant to the statute in that case made; [And whereas it also duly appeareth unto me that the said A. D. had no goods and chattels at the time of his death as aforesaid, and that he the said A. D. did die in the house of A. O. of — yeoman, at — aforesaid, in the county aforesaid; or, that A. O. of — yeoman, had a hand in, or did order and dispose the putting the said A. D. deceased in a shirt, shift, sheet, sbroud, or coffin, contrary to the form of the statute aforesaid; or, that A. M. of — yeoman, at the time of the death of him the said A. D. was master of him the said A. D. and that he the said A. D. servant to the said A. M. did die in the house of him the said A. M. at — aforesaid; or, that A. F. of — yeoman, was father to the said A. D. and that he the said A. D. did die in the family of him the said A. F. or as the case may be;] These are therefore to command you forthwith to levy the sum of 5*l.* by distress.

distress and sale of the goods and chattels which be the said A. D. had at the time of his death [or, of the goods and chattels of him the said A. O.] rendering the overplus to — your reasonable charges being first deducted; one moiety of which said sum of 5l. you shall pay to the overseers for the use of the poor of the parish where be the said A. D. was buried, and the other moiety to A. I. of — yeoman, who informed me of the said offence, and did sue for the said forfeiture. Herein fail you not. Given under my and my seal at — in the county aforesaid, the — day of — in the — year of the reign of —.

Wreck.

Wreck, what.

WRECK of the sea, in legal understanding, is applied to such goods as after shipwreck at sea are by the sea cast upon the land; and therefore the jurisdiction thereof pertaineth not to the lord admiral, but to the common law. 2 *Inst.* 167.

Jetſam, flotſam, and ligam.

None of those goods which are called *jetſam* (from being cast into the sea while the ship is in danger, and which there sink and remain under water); or those called *flotſam* (from floating on the surface of the water), or those called *ligam* (which lie in the bottom of the sea, but tied to a cork or buoy, in order to be found again,) are to be esteemed wreck, so long as they remain in or upon the sea, and are not cast upon the land by the sea; but if any of them are cast upon the land by the sea, they are wreck. 1 *Bl. Com.* 292.

Living creature escaping.

Also by the 3 *Ed. 1. c. 4.* *Where a man, a dog or a cat, escape quick out of the ship, the ship or any thing therein shall not be adjudged a wreck.*

A man, a dog, or a cat] Which statute being but declaratory of the common law, these three instances are only put for examples; for besides these two kinds of beasts, all other beasts, fowls, and other living things are understood, whereby the property of the goods may be known. 2 *Inst.* 167.

And it is now holden that not only if any living thing escape, but if proof can be made of the property of any of the goods or lading which came on shore, they shall not be forfeited as wreck. 1 *Bl. Com.* 290. As in the case of *Hamilton v. Davis*, 7 *11 G. 3.* The ship was lost. The goods cast on shore were sufficiently marked, so as that the owner might be known. But the lord of the manor refused to deliver them up, insisting that they were forfeited as wreck, because no living creature had come alive from the ship to the shore.—By *L. Mansfield Ch. J.* No case hath been produced in the argument of this cause, to prove that the goods were forfeited, because no dog or cat or other animal came alive to shore. I will therefore presume that there never was any such

such determination; and that no case could have been determined, so contrary to the principles of law, justice, and humanity. The very idea of it is shocking. And there is no ground for such a forfeiture, upon the distinction that hath been so much urged, between a man or other animal coming to shore *alive* or not alive. The coming to shore of a dog or a cat alive can be no better proof, than if they should come ashore dead. The escaping alive makes no sort of difference. If the owner of the animal were known, the presumption of the goods belonging to the same person would be equally strong whether the animal were living or not. — And the court were clear and unanimous that the owner was intitled to his goods again, on his paying or tendering a reasonable salvage. *Burr.* 2732.

By the 17 *Ed.* 2. *The king shall have wreck of the sea throughout the realm.*

The cause whereof originally wreck was given to the crown stood upon two main maxims of the common law.

1. That the property of all goods whatsoever must be in some person.
 2. That such goods as no subject can claim any property in do belong to the king by his prerogative.
- 2 *Inst.* 167.

To whom the wreck belongeth.

The taking of goods whereof no one had a property at the time is not felony; and therefore he who takes away a wreck before it is seized by the person who has a right thereto is not guilty of felony, and shall only be punished by fine or the like. 1 *How. c.* 33. *f.* 24. That is to say, he is not guilty of felony by the common law; but it is otherwise by the statutes following.

Seizing wreck not felony at common law.

To preserve ships stranded or in distress from being plundered by the country people, it is enacted by the 12 *An.* *f.* 2. *c.* 18. and the 26 *G.* 2. *c.* 19. as follows; (which said act of the 12 *An.* is required to be read in the church four times a year, in all sea-port towns, and on the coast).

Assisting ships in distress.

The justice of the peace, mayor, bailiff, collector of the customs, or chief constable who shall be nearest to where any ship shall be stranded or cast away, shall forthwith give public notice for a meeting to be held as soon as possible of the sheriff or his deputy, the justices of the peace, mayors, coroners, and commissioners of the land tax, or any five of them, who shall employ proper persons for saving the same; and shall command the constables nearest to the sea coasts to call together as many men as shall be thought necessary to assist. And also the officers of excise shall be proper officers to put these acts in execution. And within the cinque ports, the lord warden of the cinque ports, the lieutenant of *Dover castle*, the deputy warden of the cinque ports, the judge official, and commissary of the court of admiralty of the cinque ports, shall put the same in execution there.

And

And any justice of the peace, in the absence of the high sheriff, may take sufficient power of the county.

They may command all ships at anchor near to assist; and if the officer of such ship shall refuse or neglect, he shall forfeit 100*l.* with costs, to the officer of the ship in distress.

And to prevent confusion, or contradictory orders, the persons assembled to save any vessel or goods as aforesaid shall conform in the first place to the orders of the master or other officer or owner, or persons employed by them; and for want of their presence or directions, then to the order of the officers of the customs, next to those of the officers of excise, then of the sheriff or his deputy, then of a justice of the peace, then of a mayor, then of the coroner, then of a commissioner of the land tax, then of a chief constable, then of a petty constable; and any person acting contrary to such orders shall forfeit not exceeding 5*l.* to be levied by warrant of one justice, and in case of non-payment to be committed to the house of correction, not exceeding three months.

Every such sheriff, justice, mayor, coroner, lord of a manor, under-sheriff, or commissioner of the land tax, shall have 4*s.* a day during his attendance, out of the goods saved.

If any person not empowered as above shall endeavour to enter on board such vessel, or shall deface the marks of the goods, he shall within 20 days make double satisfaction to the party grieved, at the discretion of the two next justices; or in default thereof shall be sent by them to the next house of correction, to be kept to hard labour for 12 months.

If any persons, not employed by the master or owner, shall in the absence of persons employed by them save any vessel or goods, and cause them to be carried for the benefit of the owners into port, or any adjoining custom house, or place of safe custody, immediately giving notice thereof to a justice, magistrate, custom house or excise officer, they shall be entitled to a reasonable reward for the same, to be adjusted by three neighbouring justices, which may be recovered by action at law; or the same may be adjusted by the officers above mentioned. And if the said salvage (and the charges of 4*s.* a day as above mentioned) shall not be paid in 40 days after the services performed, the officer of the customs concerned in the salvage may borrow or raise so much money as shall pay the same upon a bill or bills of sale, under his hand and seal, of the vessel, or cargo, or part thereof, redeemable nevertheless on payment of the principal, and interest at 4 *per cent.*

And more generally, by another clause it is enacted that all persons who shall act or be employed in preserving any such

such vessel or cargo shall be paid a reasonable salvage, to be adjusted by three neighbouring justices as above mentioned.

If any person shall be assaulted, beaten, and wounded, in the exercise of his duty in the salvage of any vessel or goods, the offender on conviction by indictment at the assizes or sessions shall be transported for seven years. And such persons molesting the preservation of the ship may be repelled by force.

If any person shall plunder, steal, take away, or destroy any goods belonging to such ship in distress, or which shall be wrecked or stranded (whether any living creature be on board or not), or any tackle, provision, or part of such ship; or shall beat or wound, with intent to kill, or otherwise wilfully obstruct the escape of any person endeavouring to save his life from such ship, or the wreck thereof, or shall put out any false light with intent to bring any vessel into danger; he shall be guilty of felony without benefit of clergy. Provided that when goods of small value shall be stranded or cast on shore, and stolen without circumstances of cruelty, outrage, or violence, the offender may be prosecuted for petit larceny only.

If any person shall make any hole in any such ship in distress, or steal any pump belonging thereto, or wilfully do any thing tending to the immediate loss of such ship, he shall be guilty of felony without benefit of clergy.

And if oath be made before a magistrate of any such plunder or theft, or of the breaking of any such ship, and the examination in writing thereupon taken be delivered to the clerk of the peace, he shall cause the offender to be forthwith prosecuted for the same, either in the county where the fact shall be committed, or in any county next adjoining, in which adjoining county any indictment may be laid by any other prosecutor; and if the fact be committed in *Wales*, then the prosecution shall or may be carried on in the next adjoining *English* county; and the necessary charges of such prosecution shall be paid by the treasurer of the county where the fact shall be committed, as the justices in sessions shall order; and if the clerk of the peace shall neglect his duty herein, he shall forfeit 100*l.* to him who shall sue.

And one justice, upon information on oath of any part of the cargo or effects of any vessel lost or stranded near the coasts being unlawfully conveyed or concealed, or of some reasonable cause of suspicion thereof, may issue his warrant for searching as in other cases of stolen goods: And if the same be found in any house or other place, or in the possession of any person not legally authorised to have the same; and the owner or occupier, or person in whose possession the

same shall be found, shall not immediately upon demand deliver the same; such justice, on proof of such refusal, shall commit him to the common goal for six months, or until he shall have paid treble the value thereof.

If any person shall offer to sale any such goods unlawfully taken away, or reasonably suspected so to have been, the person to whom they are offered, or any officer of the customs or excise, or constable may seize the same; and shall, with all convenient speed, carry the same or give notice thereof to one justice; and if such person shall not in ten days make out his property therein to the satisfaction of the justice, they shall be delivered over to the rightful owner, on payment of a reasonable reward (to be ascertained by the justice) to the seizer; and the justice may commit such offender to the common goal for six months, or till he shall have paid treble value. And if any person shall discover to any justice, magistrate, custom-house or excise officer, where any such goods are wrongfully bought, sold, or concealed, he shall be entitled to a reasonable reward, to be adjusted as the salvage.

The officer of the customs who shall act in preserving any vessel or cargo shall, as soon as conveniently may be, cause or procure all persons belonging to the vessel, and others who can give an account thereof, to be examined on oath before a justice, as to the name or description of the vessel, the names of the master and owners, and of the places from or to which the vessel was bound, and the occasion of the distress; which examination the justice shall take in writing, and shall deliver a copy thereof to the said officer of the customs, who shall forthwith transmit the same to the secretary of the admiralty, who shall publish the same in the next *London Gazette*, or so much thereof as shall be necessary for the information of the persons interested or concerned therein.

And if no person shall appear to claim the goods saved, the officer of the custom shall apply to three of the nearest justices, who shall put him or some other responsible person in possession, taking an account in writing of the goods, to be signed by the said officer; and if they be not claimed in a year, they shall be sold (and if perishable shall be forthwith sold) and the money returned to the exchequer, till claimed by the owner.

But this shall not prejudice the right of any lords of manors, or others lawfully claiming wreck, or goods, *fisham, jetlam, or ligam*.

CONCLUSION.

HAVING thus finished the work proposed, it may be requisite upon the whole to subjoin one single reflection, which will occur to every reader in perusing almost every one of the larger titles of this book, and that is, concerning the possibility and expediency of reforming the statute law. The statutes at large, from the very nature of the thing, have in process of time become very cumbersome, and very intricate. They are not to be purchased but for a larger sum of money, nor to be understood without a greater expence of time, than a wise man would often chuse to employ in that way.

The course to be taken in that matter seems to be this ;

First, actually to repeal all those statutes, and parts of statutes, which are *virtually repealed* by subsequent contradictory statutes.

Secondly, to repeal all those statutes, which are *obsolete*, and grown out of use, by the alteration of times and circumstances.

Thirdly, to repeal all those statutes which being neither contradicted by subsequent statutes, nor become obsolete, yet are rendered *useless* by subsequent statutes enacting the same things over again, with alterations and amendments.

Fourthly, to repeal or alter all those statutes which are *frivolous*, that is, which possibly cannot or probably never will be executed ; such as those which appoint an offender to be whipped by the hands of the common hangman, where perhaps there is no such officer ; or which prohibit an offence under a very small penalty to be recovered in the courts at *Westminster*, where the reward will not countervail the expence of recovering it.

Fifthly, to omit all those statutes, which, although enacted to be public statutes, yet are only of *private concern* ; such as those for bridges in particular places, or paving the streets in such a market town ; and the like.

Sixthly, as to the rest, to lay all the statutes, and clauses of statutes together, which relate to the same subject, and out of the whole to compose one, two, or more uniform and consistent statutes ; and then to repeal all those other, as workmen destroy the scaffolding when they have erected the building.

I know but of one material objection against this method of proceeding : and that is, that the law being now for the

most part well settled upon the statutes, notwithstanding their acknowledged disorder and confusion, this would tend to unsettle all again, by breaking the connexion which there is between one statute and another, and one part of a statute and another, altering the words and phrases, and after all perhaps not much mending the matter, since it is possible that the new statutes may be as liable to objections as the former were.

But this is an argument not so much against the thing itself, as against the manner in which it may be executed. As to breaking the connexion, it is certain that for the most part there is no connexion; and where there is, that may easily be preserved. And it ought to be laid down as an invariable rule, to retain as much as possible the indentical words and sentences of the former statutes; only rejecting what is superfluous, inserting the clear law as it now stands, and putting the same into a form more regular, concise, and easy. And this seemeth no way impossible to be done by any person of a tolerable understanding, endowed only with a clear head and much patience.

A D D E N D A.

Apprentice.

(Vol. I. p. 134.)

Finley v. Jewle, E. 50 G. 3. The stat. 20 G. 2. c. 19., for the regulation of certain servants and apprentices, enacts (s. 4.) that it shall be lawful for two or more justices of the peace "upon application or complaint made, upon oath, by any master or mistress, against any such apprentice, touching any misdemeanor, &c. in such service," to hear and determine the same, and punish the offender by commitment to the house of correction, there to be corrected and held to hard labour not exceeding one calendar month; or otherwise to discharge such apprentice. The plaintiff was an apprentice within the description of the act, against whom his master, the defendant, had preferred a complaint in writing before two magistrates of the county of York; which complaint was verified by the oath of a witness who spoke to the fact, but not by the oath of the master himself: and the magistrates having discharged the defendant of his apprentice, the latter brought this action upon the indentures against his master, who justified under the magistrates' discharge: and at the trial, it was objected that the magistrates had no jurisdiction by the words of the act, the complaint not having been verified upon the oath of the master. But this was over-ruled and there was a verdict for the defendant.—Upon a motion for a new trial, Lord *Ellenborough* Ch. J. The words of the act must be understood with reference to the subject matter. The application or complaint must be made to the magistrates by the master or mistress, because they alone have an interest in preferring it: and it must be verified upon oath, but it need not be upon the oath of the master or mistress, who may know nothing of the fact themselves: the complaint may be well founded upon some cause which happened in their absence. But it is sufficient that the master makes the complaint and verifies it by the oath of the person who knows the fact; otherwise unless the fault were committed in the presence of the master, he would be without the remedy intended to be given by the legislature. *Per Curiam*. Rule refused.—12 E. R. 248.

Bastard.

(Vol. I. p. 271.)

The following it is conceived will be found a useful form of a certificate under 49 G. 3. c. 68. s. 2.

To the worshipful his majesty's justices of the peace, acting in and for the county of *Buckingham*, assembled at the general quarter session of the peace, holden at *Aylesbury*, in and for the said county, on the _____ day of _____ 18

Bucks, (to wit) *WHEREAS* _____ of _____ in the said county of *Buckingham*, single woman, did by her voluntary examination taken in writing upon oath, before J. P. one of his majesty's justices of the peace for the said county, at _____ in the said county, on the _____ day of _____ last past, declare herself to be then with child; and that the said child was likely to be born a bastard, and to be chargeable to the said _____ of _____ and the said _____ did then and there charge _____ of _____ with having gotten her with child: And whereas the said J. P. upon application made to him by _____ one of the overseers of the poor of the said _____ issued his warrant for the immediate apprehending the said _____ so charged as aforesaid, and for bringing the said _____ before him the said J. P.; [By the act, the person so charged may be ordered to be brought before the said justice, or any other justice of such county; and therefore it should be added, if the man is to be brought before another justice than him who made the warrant, "or some other of his majesty's justices of the peace for the said county," otherwise it may appear that he was brought before one to whom the warrant did not extend.] And whereas afterwards (to wit) on the _____ day of _____ the said _____ was thereupon brought before the said J. P. (or, before _____ one of his majesty's justices of the peace for the said county of *Buckingham*), and thereupon entered into a recognizance before him the said _____ in the sum of £. _____ with two sureties, to wit, _____ of _____ and _____ of _____ in the sum of £. _____ each, upon condition to appear at the next general quarter session of the peace to be holden for the said county, to abide and perform such order or orders as should then be made in pursuance of an act passed in the 18th year of her late majesty queen Elizabeth, concerning bastards begotten and born out of lawful matrimony: unless one of his majesty's justices of the peace for the said county should have certified &c. [pursuing the words of the act down to the word reason.]

NOH

NOW we ——— and ——— two of his majesty's justices of the peace, acting in and for the said county of Buckingham, do hereby, in pursuance of the authority and directions of the act of 49 G. 3. c. 68. intituled, "An act to explain and amend the law of bastardy, so far as relates to indemnifying parishes in respect thereof," certify to the said herein-first mentioned general quarter session, that an order of filiation in the premises hath been already made on the said ——— so charged as aforesaid; [or, that it is not now requisite to make any order of filiation on the said ——— so charged as aforesaid, by reason that ——— [this blank to be filled up with the reason why it is not requisite to make the order of filiation (a)] ——— [or, *NOW* I ——— one of his majesty's justices of the peace, acting in and for the said county of Buckingham, do hereby, in pursuance of the authority and directions of the act of 49 G. 3. c. 68. intituled, "An act to explain and amend the law of bastardy, so far as relates to indemnifying parishes in respect thereof," certify to the said first mentioned general quarter session, that it hath been this day proved before me, upon the oath of ——— (being a credible witness) that she the said ——— hath not yet been delivered of the said bastard child: ——— [or, *NOW* I ——— one of his majesty's justices of the peace, acting in and for the said county of Buckingham, do hereby, in pursuance of the authority and directions of the act of 49 G. 3. c. 68. intituled, "An act to explain and amend the law of bastardy, so far as relates to indemnifying parishes in respect thereof," certify to the said first mentioned general quarter sessions that it hath been this day proved before me, upon the oath of ——— (being a credible witness) that she the said ——— was delivered of a ——— bastard child, within one month only previous to the ——— day of ——— on which the said general quarter session of the peace will be holden, to wit, on the ——— day of ——— in the year of our Lord ———.]

Given under our hands, [or my hand] the ——— day of ——— in the year of our Lord ———

(Vol. I. p. 298.)

R. v. Knill, H. 50 G. 3. Upon appeal to sessions against an order of bastardy, it is incumbent upon the respondents to begin to support the order, whatever may be the practice of the sessions in that respect, (according to the case of *R. v. Newbury*, 4 T. R. 475.) 12 E. R. 50.

(Vol. I. p. 299.)

By the 50 G. 3. c. 51. s. 1. the 7 J. c. 4. is repealed; and by s. 2. It is enacted that when a woman shall have a bastard

(a.) This form can only be used once: and if the recognizance be respited till the second sessions, the proceedings will be according to the method pursued before this act.

child which may be chargeable to the parish, it shall be lawful for any two justices before whom such woman shall be brought, at their discretion, to commit her to the house of correction for the district or place, and there to set her on work for a space of time not exceeding twelve calendar months, nor less than six months.

And by *s. 3.* Any two justices at any petty session for the division wherein the parish to which such bastard child may be chargeable is situate, upon their own knowledge, or a certificate duly authenticated from the keeper of such house of correction, in which such woman shall have been confined for not less than six weeks, of the good behaviour of such woman during her confinement, and of the reasonable expectation of her reformation, by warrant under their hands and seals to order such woman to be immediately (or at the time appointed by such warrant) discharged and released from further confinement.

But by *s. 4.* No justice shall commit any such woman to the house of correction till she shall have been delivered for one calendar month.

Bread.

(Vol. I. p. 324.)

By the 50 *G. c. 3. c. 73.* Several new regulations were enacted relating to the baking of bread.

By *s. 1.* it is enacted, that if any person or persons residing beyond the city of *London* or the liberties thereof, or beyond ten miles of the Royal Exchange, shall make any bread for sale, or shall send out or expose to or for sale any bread which shall be deficient in weight, according to the assize which shall be set for any such bread from time to time to be sold at, in pursuance of any act or acts then in force for regulating the price and assize of bread, it shall be lawful for any magistrate or justice of the peace within the limits of their respective jurisdictions, before whom any information shall be given upon the oath of one witness of any such deficiency in weight, and also for any peace officer, authorised by warrant under the hand and seal of any such magistrate or justice, at seasonable times in the day time to enter into any house, shop, stall, bakehouse, warehouse, or outhouse of or belonging to any such baker or seller of bread, against whom such information shall have been made as aforesaid, to search for, view, weigh, and try all such bread as shall be then and there found, and shall have

Penalty on
bakers for selling
bread short of
weight to be
weighed within
twen y-four
hours after
baking.

have been baked within twenty-four hours next preceding the time of the same having been so weighed, and which bread shall be weighed by the bushel, or in any larger or smaller quantity, as may be found most convenient; and if on the weighing of such bread any deficiency shall be found in its due weight on the average of the whole weight of all such bread as shall be then and there found, and which shall have been baked within twenty-four hours as aforesaid, and which deficiency shall be proved before such magistrate or justice upon the oath of the party weighing the same, then he so offending in the premises, and being thereof convicted, shall forfeit not exceeding five shillings for every ounce of bread which shall be found deficient in weight on the average of all such bread as shall have been so weighed, and so in proportion for every deficiency of weight less than an ounce, as any such magistrate or justice before whom any such deficiency shall be so proved shall think fit to order, except as hereafter is excepted; and any such magistrate, justice or peace officer, within the limits of their respective jurisdictions, may in such case, where there is a deficiency on the average as aforesaid, seize all such loaves as shall be so found deficient; and any such magistrate or justice may dispose thereof as he in his discretion shall think fit, except it shall be proved, by or on the behalf of the parties against whom such information shall be made by the oath or affirmation, being a *Quaker*, of any one or more respectable house-keeper, that such deficiency wholly arose from some unavoidable accident in baking or otherwise, or was occasioned by or through some contrivance or confederacy.

And by *§. 2.* Every baker and seller of bread beyond the said city of *London* and the liberties thereof, and beyond the said ten miles of the Royal Exchange, shall have fixed in some convenient place of his shop, a beam and scales with proper weights of the assize weight of a half-peck loaf, a quartern loaf, and a half quartern loaf; and also of an eighteen penny, one shilling, sixpenny, and three-penny loaf; and any person who may purchase any such loaf of bread from any such baker or seller of bread, may, if he shall think proper, require the same to be weighed in his presence; and if any such loaf shall be found deficient in weight, then the person demanding the same to be so weighed shall have the deficiency made up with other bread or another loaf given in lieu thereof, as may be required by such person; and any such baker or seller as aforesaid, who shall neglect to fix such beam and scales or to provide and keep for use proper weights, or whose weights shall be deficient in their due weight, or who shall refuse to weigh any half-peck loaf, quartern loaf, or half-quartern loaf or loaves

Bakers to have weights and scales in their shops.

purchased in his shop, in presence of the party requiring the same, and shall be thereof convicted, either by the oath of one witness, or his own confession, shall for every such offence forfeit not exceeding ten shillings, as the magistrate or justice, before whom such offender shall be convicted, shall think fit.

Limitation as to
baking on Sun-
days.

By s. 3. No person exercising or employed in the trade or calling of a baker, beyond the said city of London or the liberties thereof, or beyond the said ten miles of the Royal Exchange, shall on the Lord's day, commonly called Sunday, or any part thereof, make or bake any household or other bread, rolls, or cakes of any sort or kind, or shall on any part of the said day, excepting between ten in the forenoon and half-past one in the afternoon, on any pretence whatsoever, sell or expose to sale or permit or suffer to be sold or exposed to sale, any bread, rolls, or cakes of any sort or kind, or bake or deliver, or permit or suffer to be baked or delivered, any meat, pudding, pie, tart or victuals, at any time after half past one of the clock in the afternoon of that day, or in any other manner exercise the trade or calling of a baker, or be engaged or employed in the business or occupation thereof, save and except so far as may be necessary in setting and superintending the sponge to prepare the bread or dough for the following day's baking; and no meat, pudding, pie, tart, or victuals, shall be brought to or taken from any bakehouse during the time of divine service in the church of the parish, hamlet, or place where the same is situate, nor within one quarter of an hour of the time of commencement thereof; and every person offending against any one or more of the foregoing regulations or making any sale or delivery hereby allowed between the hours aforesaid otherwise than within the bakehouse or shop, and being thereof convicted before any justice of the county, city or place where the offence shall be committed, within two days from the commission thereof, either upon the view, or on confession, or proof by one witness, shall for every such offence forfeit, for the first offence, not exceeding five shillings, for the second offence not exceeding ten shillings, and for the third and every subsequent offence respectively not exceeding fifteen shillings, and shall moreover on conviction pay the costs and expences of the prosecution, to be assessed by the justice convicting; and the amount thereof, together with such part of the penalty as such justice shall think proper, to be allowed to the prosecutor for loss of time in instituting and following up the prosecution, at a rate not exceeding 3s. per diem, shall be paid to the prosecutor for his use, and the residue of such penalty shall be paid to such justice and within seven days after his receipt thereof.

thereof be transmitted by him to the churchwardens or overseers of the parish where the offence shall be committed, to be applied for the benefit of the poor thereof; and in case the whole amount of the penalty, and of the costs and expences as aforesaid, be not paid within three days after conviction, such justice shall, by warrant under his hand and seal, direct the same to be levied and raised by distress and sale, and in default or insufficiency of such distress, commit the offender to the house of correction on a first offence for any time not exceeding seven days, on the second offence for any time not exceeding fourteen days, and on the third or any subsequent offence for any time not exceeding twenty-one days, unless the whole of the penalty, costs and expences be sooner paid.

s. 4. saves the right of the universities: and by *s. 5.* the pains and penalties of former acts not hereby altered shall extend to this act.

Bridges.

(Vol. I. p. 364.)

[The following case is inserted much at length as being of importance in the principle it establishes, and as adverting to many points of great public consequence.]

R. v. the Inhabitants of Bucks, H. 50 G. 3. This was an indictment for not repairing a bridge; the defendants pleaded a special plea; and were found guilty, subject to the opinion of the court on the following case:

Queen Anne was seised in fee, in right of the crown, of an ancient ferry, with the appurtenances, called *Datchet Ferry*, across the river *Thames*, for the passage over that river of all persons, horses, carriages, and cattle, in boats kept by her there for that purpose, for certain ancient tolls; and being so seised, about the year 1706 built a bridge across the river about five yards above the place where the ferry was situated. The sign manual of her majesty to the lord high-treasurer for building the said bridge is as follows; viz. [It stated directions given by her majesty to her surveyor-general, for building a bridge at *Datchet*, near *Windsor*, over the river *Thames*, for the better conveniency of her passage to and from her castle at *Windsor*; and his report of timber necessary to build the said bridge, and that there was timber in *Windsor Forest* proper and sufficient for the said work; and authorised his warrant for marking, felling, and cutting down timber within the said forest, sufficient for building the said bridge pursuant to the said computation, and delivering the

the timber when felled to the said surveyor. And it directed *E. Wilcox* to sell the lops, tops, bark, and offal wood of the whole for the best advantage for her use, and to account for the said service before the auditor of *Bucks.*] This bridge was constantly repaired by her majesty and her royal successors, from time to time, until the year 1771, when the surveyor-general having reported to the lords of the treasury "that the bridge had become ruinous, and "must of necessity be taken down; that it had been built "and always repaired by his majesty, who had frequent "occasions of passing over it;" an order was made by the lords of the treasury in 1772 to build a new bridge with stone piers; which bridge, being the bridge mentioned in the indictment, was finished in 1775, at the expence of his present majesty, who from time to time repaired the last-mentioned bridge at his own expence, until 1796, when it being much out of repair, and having given way and fallen in on the part which lies in *Buckinghamshire*, and becoming thereby wholly impassable, the wooden part of it was taken down by his present majesty, and the materials were sold or otherwise converted to his own use. The said bridge is situate in a principal highway from *London* to *Windser*, and has always, except when it became at different times impassable for want of repair, and when it was rebuilding as aforesaid, until it was finally taken down in 1796, been used by the public on all occasions, for all purposes of passage over it, without any toll ever having been paid or demanded; and was during the discontinuance of the ferry, the means of passing the *Thames* in the said highway, and was at all times of great public use and convenience. At the time when queen *Anne* built the first mentioned bridge, she discontinued the use of the ferry, and the said ferry remained so discontinued from that time until the bridge was finally taken down, in 1796, when his present majesty re-established the said ferry, which hath been used for the public ever since, and still is used by them for the purpose of passing over the *Thames* at the place aforesaid. During the time the ferry hath been in the hands of the crown, the same hath been and still is maintained at the expence of the crown, and the public have, at all times used the same toll free. The question for the consideration of the court was, whether this were a public bridge, the part of which, lying in their county, the defendants were liable to repair and rebuild.

For the prosecution, it was contended that this was a public bridge, and therefore the county were bound by law to repair it, unless they could throw the burthen upon some other person. That its having been built in a public highway, having been always used by the public, and being
of

of great public convenience, established it to be a public bridge within the principle of all the cases.

That if a private man build a bridge for his own convenience, but dedicate it to the public, by suffering them to have the general use of it, and it is in fact a public convenience, the burthen of repair is thereby thrown upon the county at large. [*Rex v. The inhabitants of the county of Glamorgan* (a), the *Glusburne Bridge* case (b), and the *King v. the Inhabitants of the W. R. of Yorkshire* (c).] In *Payne v. Partridge* (d) it is said that the owner of a ferry could not let down the ferry and put up a bridge, without license and an *ad quod damnum*. The crown however might do this by its prerogative; and having once erected the bridge and suffered the public to use it for their convenience, the legal consequence follows; when the ruins of the old bridge were taken down, the property in the materials reverted to the crown, at whose expence the bridge had been built (e). That the constant repair of the bridge since it was erected by the crown did not vary the question, it having become a public bridge; the liability to repair it falls of course on the county as soon as the crown ceased to repair it.

Contra, it was contended that the county were not bound to repair the bridge: it was not built in the original highway, but several yards on one side of it; and therefore even if built by a private person, it could not have been indicted as a nuisance in the first instance. [*Le Blanc J.* How is that statement to be reconciled with the finding in the special case, that the bridge is built in a principal highway?] It has become a principal highway since by the using of the bridge; but taking all the circumstances of the case together, it appears not to have been in the highway at first. [*Lord Ellenborough C. J.* It is stated to be now in a principal highway from *London to Windsor*; and we must presume that it was so from the first user of it; being built for the convenient passage of her majesty along the old highway.] Then taking it to be so; yet, 1st, if the queen meant to retain the dominion of the bridge to herself, her suffering the public to use it will not make it a public bridge against her consent. 2dly, The facts of this case shew that she did retain the dominion of it. 3dly, Since the stat. 1 Ann. st. 1. c. 7. s. 5. there can be no grant of a bridge by the crown to

(a) Before Lord Kenyon C. J. in 1788, 1 Bac. Abr. by Gwill. 535. and 2 East. 356.

(b) 5 Burr. 2504. and 2 Bla. 687. (c) 2 East. 342.

(d) 1 Salk. 12. and 3 Mod. 289.

(e) *Harrison v. Parker*, 6 East. 154.

the inhabitants of a county. First, Where the builder of a new bridge shews by his acts that he means to retain the dominion over it, it does not become a public bridge by his merely suffering the use of it by the public. Permitting to the public a limited or temporary use of it would not be deemed an abandonment of the bridge to them. If one who was bound to repair an ancient bridge *ratione tenure* were to build a new bridge at a little distance while the old one was under repair, that could not be deemed an abandonment of the new bridge, but the public would still have a right of passage over the old bridge when repaired. So here, upon the removal of the new bridge, and the restoration of the ancient ferry, the right of the public to use the latter would be resumed. In the cases cited of *Glusburne Bridge* (a) and *Pace Gate Bridge* (b), they were erected for the express purpose of being dedicated to the public use; and the *Glamorganshire Bridge* (c) was stated to be built in the king's highway. Then, 2dly, the facts here stated shew that the crown meant to retain the dominion over *Datchet Bridge* during the time it was in existence. The warrant for building it shews that the queen only looked to her own convenience: the bridge was constantly repaired by the crown; which is a continuing act of ownership, and rebuts any presumption that the crown had abandoned it to the public: in 1771 the king pulled down the old bridge, and in 1775 built the new one; and this again was pulled down by the king in 1796, when the materials were sold for his majesty's benefit; which was the most complete assertion of ownership. [Lord *Ellenborough* C. J. If it had become a public bridge before that time, the misconception of the crown as to its own right would not alter the right of the public.] It is available as evidence that the crown never meant to abandon the bridge to the public: the same intention was evinced by the keeping up of the ferry: it was an experiment of the sovereign to see whether the ferry or the bridge best answered the purpose of the royal convenience. Then as the user of the bridge by the public from 1775 would, if unexplained, be evidence of their adoption of it; so the user by the public of the ferry since 1796 is also evidence of their re-adoption of their ancient right. 3dly, Since the Stat. 1 Ann. st. 1. c. 7. s. 5. restraining grants of crown lands for any longer period than 31 years or 3 lives, the crown could not abandon the land on which the bridge is built in perpetuity to the county. [Grise J. It is not stated to be crown land: it is only stated that the bridge was built in

(a) 5 Burr. 2594.

(b) 2 East. 342.

(c) *ib.* 356.

the public highway, which may be the land of a subject as well as of the crown.] The court would rather presume that it was the land of the crown, than that the king had invaded the property of the subject. [Lord *Ellenborough* C. J. If it were the land of a subject, his acquiescence would be evidence of his assent to dedicate it to the use of the public. But I draw no presumption either way: you assume it to be the land of the crown, in order to raise the argument. [Bayley J. The title to the land may still remain in the crown, though the bridge is public.] Considering it only as a grant of a right of passage, still the crown could not grant it to the subject. [Le Blanc J. The question does not arise upon the case, as stated.]

On the last day of term, Lord *Ellenborough* C. J. delivered the judgment of the court.—The question reserved upon this case for the consideration of the court is, whether this were a public bridge, the part of which lying in their county the defendants were liable to repair or rebuild. The county not having tendered an issue by their plea that any other description of persons, *i. e.* that any body politic or corporate or natural person or persons were liable to the repair of the bridge in question, the burthen of repairing the half part of the bridge which was situate in *Buckinghamshire* will rest upon the defendants, if it be under the circumstances a public burthen to be by law imposed upon any body. And that depends upon the single question, whether this were a public bridge. None of the cases cited profess to give an immediate definition or description in terms of what shall be considered “public bridges;” although a distinction between a public and private bridge is taken in 2 *Inst.* 701. and made to consist principally in its being built for the common good of all the subjects, as opposed to a bridge made for private purposes; and the instance put of a private bridge is a “bridge to a mill which *A.* was bound to maintain over which *B.* had passage.” And the words themselves, *i. e.* “public bridges,” do not occur in the stat. of 22 *H.* 8. c. 5. called the statute of bridges. But the sense of these words may be very distinctly inferred from that statute, which empowers the justices of peace in their general sessions to inquire of “all manner of annoyances of bridges broken in the highways,” and applies to bridges of that description all its subsequent provisions; and amongst others, that, which casts upon shires and ridings the repair of bridges situate within them (and without any city or town corporate), where it cannot be known and proved what hundred, riding, wapentake, city, borough, town, or parish, nor what person certain or body politic ought of right to make such bridges decayed, *i. e.* such bridges broken in highways.

ways. Inferring therefore from the statute that a bridge in a highway is a public bridge for all purposes of repair connected with the statute of bridges, we have only to refer to the case before us to see whether this be a bridge in a highway. And upon such references we find it expressly stated to be "a bridge in a principal highway," and of course, as public as the highway itself is in which it is situate, and of which for the purpose of passage it must be understood to form a part. I say, must be understood to form a part, because if it had been a bridge built for the mere purpose of connecting a private mill, for instance, with the public highway, or for any other such merely private purpose; although the public might occasionally participate with the private proprietor in the use of it, the bridge would not merely on that account necessarily become a part of the highway. It has been said, that this is to be considered as a private bridge, because in the warrant of her majesty queen Anne for the building of it she describes it as being built "for the better conveniency of her passage to and from her castle of Windsor." But if the words themselves could be considered as importing a mere purpose of private conveyance and use; and which with reference to the public station and dignity of her majesty, and the public resort which must be had to her in the place of her residence, can hardly be; yet the contemporary as well as the immediately subsequent and continued use of this bridge on the part of the public, without any interruption, shews conclusively that her majesty contemplated a more general and public use of the bridge which she had built; indeed that she contemplated an use of the bridge as public as that of the ferry had been, which was discontinued upon the erection of the bridge. But it may be asked, is every sort of bridge, erected as it may happen to have been for a temporary purpose during a time of flood or the like, and which may have rendered the ordinary fords impassable, or the ordinary means of passage impracticable, to be considered as a bridge in a highway, to be repaired when broken down, according to the provisions of the stat. of Hen. 8. The answer is, certainly not. A merely occasional substitute of this nature, removed as soon as the temporary purpose of its erection is answered, is not a bridge within the contemplation of this act, which certainly relates only to bridges respecting which a reasonable question may arise as to "who ought to make them," and not to those, respecting which no question can ever arise whether they ought as a matter of public obligation to be made at all. If the meaning of the words "public bridge" could properly be derived from any other less authentic source than the statutable one I have mentioned, they

they might safely be defined to be such bridges as all his majesty's subjects had used freely and without interruption as of right, for a period of time competent to protect them and all who should thereafter use them from being considered as wrong-doers in respect of such use, in any mode of proceeding, civil or criminal, in which the legality of such use might be questioned. And if a free and uninterrupted use of a bridge for near 90 years be not sufficient for the purpose of such protection, I am at a loss to say what length of time, or that any time, however long, could be effectual for the purpose. The circumstances of the removal, and application of the materials of the bridge to his majesty's use, cannot render it less a public bridge within the statute, if it had effectually become so prior to that period: and the only way in which that circumstance operates is in the way of evidence, and in order to establish that the bridge was in its origin and purpose a private one; a supposition which is in this case entirely repelled by the free and continued use of it on the part of the public from the moment of its construction about the year 1706 to its downfall and destruction in 1796. It is unnecessary to pronounce what effect, if any, the several circumstances stated may have upon the legal existence of the ferry in question. Upon that subject we have at present no occasion to intimate an opinion. It is enough for us to say that neither the original existence and use of the ferry, nor its discontinuance afterwards, nor its renewal since, have the effect of either precluding or qualifying the operation of the statute of bridges in respect to the bridge now under consideration. Upon the whole, therefore, in conformity with the letter and spirit of the statute of bridges itself, and with all the cases which have in later times been decided upon this subject, and particularly with that of *Glusburne Beck Bridge*, (*Ree v. the inhabitants of the West Riding of Yorkshire*, 5 Burr. 2594.) and the principles there established, and since recognized in several subsequent cases, we are of opinion, that this bridge, situate in a principal highway, and used, as it so long was, for all persons as a public bridge, and being also of great public use and convenience, was and is a bridge repairable (as to the half part now in question) by the county of *Burks*, in which it was, until the period of its late dilapidation and destruction, situate; and of course that the verdict found in this case against the defendants must stand.

Judgment for the Crown.

Corn.

(Vol. I. p. 607.)

But now by the 49 G. 3. c. 98. new Tables are constructed, and they are as following :

SCHEDULE (A)—INWARDS.		Permanent Duty.			Temporary or War Duty.		
TABLE No. 1.		£ s d			£ s d		
The following duties are payable on the importation of wheat, wheatmeal, or flour, rye, barley, beer, or bigg, oats, oatmeal, pease, beans, indian corn or maize, except from the provinces of Quebec and the other British colonies or plantations in North America, viz.							
—	Corn, Wheat, if the aggregate average price at the port of importation is						
- - -	under 63s. per quarter, high duty, the quarter	1	5	0	0	8	4
- - -	at or above 63s. but under 66s. per quarter, first low duty, the quarter	0	2	6	0	0	10
- - -	at or above 66s. per quarter, second low duty, the quarter	0	0	6	0	0	1
—	Rye, pease, beans, if the aggregate average price at the port of importation is						
- - - - -	under 42s. per quarter, high duty, the quarter	1	2	6	0	7	6
- - - - -	at or above 42s. but under 44s. per quarter, first low duty the quarter	0	1	6	0	0	6
- - - - -	at or above 44s. per quarter, second low duty, the quarter	0	0	3	0	0	1
—	Barley, beer, or bigg, if the aggregate average price at the port of importation is						
- - - - -	under 31s. 6d. per quarter, high duty, the quarter	1	2	6	0	7	6
- - - - -	at or above 31s. 6d. but under 33s. per quarter, first low duty, the quarter	0	1	3	0	0	5
- - - - -	at or above 33s. per quarter, second low duty, the quarter	0	0	3	0	0	1
—	Oats, if the aggregate average price at the port of importation is						
- - -	under 21s. per quarter, high duty, the quarter	0	6	9	0	2	3
- - -	at or above 21s. but under 22s. per quarter, first low duty, the quarter	0	1	0	0	0	4
- - -	at or above 22s. per quarter, second low duty the quarter	0	0	3	0	0	1
—	Wheatmeal or flour, if the aggregate average price of wheat at the port of importation is						
- - - - -	under 63s. per quarter, high duty, the cwt.	0	6	9	0	2	3
- - - - -	at or above 63s. but under 66s. per quarter, first low duty, the cwt.	0	1	6	0	0	6
- - - - -	at or above 66s. per quarter, second low duty, the cwt.	0	1	0	0	0	4
—	Indian corn or maize, if the aggregate average price of barley at the port of importation is						
- - - - -	under 31s. 6d. per quarter, high duty, the quarter	1		6	0	7	6
- - - - -	at or above 31s. 6d. but under 33s. per quarter, first low duty, the quarter	0	1	3	0	0	5
- - - - -	at or above 33s. per quarter, second low duty, the quarter	0	0	3	0	0	1

SCHEDULE (A)—INWARDS.

	Permanent Duty.	Temporary or War Duty.
Corn, Oatmeal, if the aggregate average price at the port of importation is	£ s. d.	£ s. d.
- - - under 20s. per boll, of 140 lbs. avoirdupoise, or 28 lbs. Scotch Troy, high duty, the boll - - -	0 8 3	0 2 9
- - - at or above 20s. but under 21s. per boll, first low duty, the boll - - -	0 1 0	0 0 4
- - - at or above 21s. per boll, second low duty, the boll - - -	0 0 6	0 0 2
TABLE No. 2.		
The following duties are payable on the importation of wheat, wheatmeal or flour, rye, barley, beer or big, oats, oatmeal, pease, beans, Indian corn, or maize, from the province of Quebec, and the other British colonies or plantations in North America, viz.		
Wheat, if the aggregate average price at the port of importation is,		
- - - under 53s. per quarter, high duty, the quarter - - -	1 5 0	0 8 4
- - - at or above 53s. but under 56s. per quarter first low duty, the quarter - - -	0 2 6	0 0 10
- - - at or above 56s. per quarter, second low duty, the quarter - - -	0 0 6	0 0 2
Rye, pease, beans, if the aggregate average price at the port of importation is		
- - - under 35s. per quarter, high duty, the quarter - - -	1 2 6	0 7 6
- - - at or above 35s. but under 37s. per quarter, first low duty, the quarter - - -	0 1 6	0 0 6
- - - at or above 37s. per quarter, second low duty, the quarter - - -	0 0 3	0 0 1
Barley, beer, or bigg, if the aggregate average price at the port of importation is		
- - - under 26s. per quarter, high duty, the quarter - - -	1 2 6	0 7 6
- - - at or above 26s. but under 28s. per quarter, first low duty the quarter - - -	0 1 3	0 0 5
- - - at or above 28s. per quarter, second low duty, the quarter - - -	0 0 3	0 0 1
Oats, if the aggregate average price at the port of importation is		
- - - under 17s. per quarter, high duty, the quarter - - -	0 6 9	0 2 3
- - - at or above 17s. but under 18s. per quarter, first low duty the quarter - - -	0 1 0	0 0 4
- - - at or above 18s. per quarter, second low duty the quarter - - -	0 0 3	0 0 1
Wheatmeal or flour, if the aggregate average price of wheat at the port of importation is		
- - - under 53s. per quarter, high duty, the cwt. - - -	0 6 9	0 2 3
- - - at or above 53s. but under 56s. per quarter, first low duty, the cwt. - - -	0 1 6	0 0 6
- - - at or above 56s. per quarter second low duty, the cwt. - - -	0 0 3	0 0 1
Indian corn or maize, if the aggregate average price of barley at the port of importation is		
- - - under 26s. per quarter, high duty, the quarter - - -	1 2 6	0 7 6
- - - at or above 26s. but under 28s. per quarter, first low duty, the quarter - - -	0 1 3	0 0 5
- - - at or above 28s. per quarter second low duty, the quarter - - -	0 0 3	0 0 1

SCHEDULE (A)—INWARDS.

	Permanent Duty.	Temporary or War Duty.
	£ s. d.	£ s. d.
Corn, Oatmeal, if the aggregate average price at the port of importation is		
- - - under 16s. 6d. per boll of 140lbs. avoirdupois, or 128lbs. Scotch trov, high duty, the boll -	0 8 3	0 2 9
— Oatmeal, if the aggregate average price at the port of importation is at or above 16s. 6d. but under 17s. 4d. per boll, first low duty, the boll -	0 1 0	0 0 4
— - - at or above 17s. 4d. per boll, second low duty, the boll -	0 0 3	0 0 1
— Wheat, wheatmeal or flour, rye, barley, beer or bigg, oats, oatmeal, pease, beans, Indian corn, or maize,		
For the conditions, regulations, and restrictions according to which the aggregate average price of such corn shall be ascertained, and under which such corn may be secured in warehouses without payment of duty, See 31 Geo. 3. cap. 30. 33 Geo. 3. cap. 65. 44 Geo. 3. cap. 109. and 45 Geo. 3. cap. 86.		
Having been secured in warehouses, when taken out to be used or consumed in Great Britain, and not first to be carried coastwise to some other port of Great Britain where foreign corn of the same sort may be imported on the low duties, such duties shall be paid, as shall at the time of taking out be due and payable for the like sort of corn, meal, or flour imported into the same port from any foreign country; and also in addition to such duties the several and respective duties specified in the table marked No. 1, under the name of the first low duties.		
— His majesty in council may, when the aggregate average price of any sort of corn or of oatmeal in England or Scotland respectively shall appear to be at or above the prices at which foreign corn, meal, or flour of the same sort is allowed by law to be imported, at the first low duty, specified in the Table marked No. 1, permit generally, the importation into England or Scotland respectively, or the taking out of warehouse for home consumption of any such sort of foreign corn, meal or flour, on payment of the second low duty only, as specified in the said Table No. 1, and no other; and such permission shall continue in force for the space of six months at least from the date of the order in council made for that purpose, See 31 G. 3. cap. 30. 33 Geo. 3. cap. 65. and 45 Geo. 3. cap. 86.		
— His majesty in council is authorized, whatever may be the general average price of any sort of corn or grain, or of oatmeal, in England and Scotland respectively, from time to time when and as often as the same shall be judged expedient, to permit generally the importation into Great Britain of any foreign wheat, rye, barley, beer or bigg, pease, beans, oats, or any meal or flour, or bread, biscuit, or malt made thereof, or any Indian corn or maize, or meal or flour made thereof, in any British vessel, or in any other vessel belonging to persons of any kingdom or state in amity with his majesty, navigated in any manner whatever: and also the taking out of warehouse for home consumption of any such foreign corn or other article as aforesaid, without payment of any duty whatsoever. His majesty is likewise authorized in like manner to recall such permission, either in part or in the whole, if circumstances shall appear so to require, See 39 Geo. 3. cap. 87. continued by several acts, and by 49 Geo. 3. cap. 23. further continued to the 25th March 1870.		
Note—All foreign corn when delivered out of any ship or vessel in the port of London, is subject also to a duty of 2d. per last, or 10 quarters, to be paid to the inspector of corn returns.		

Evidence.

(Vol. I. p. 751.)

Bettison and another v. *Sir Robert Howe Bromley Bart.* E. 50 G. 3. In this case it was decided, that the wife of a person named and acting as executor of a will, which person took no interest either by legacy or way of residuum under the will, was a competent attesting witness to prove the due execution of the will. 12 E. R. 250.

Excise and customs.

(Vol. II. p. 19.)

Grosvenor, Exor. &c. v. the inhabs. of the Lath of *St. Augustine*, in *Kent*, E. 50 G. 3. This was an action of debt for 100l., upon the stat. 19 G. 2. c. 34. s. 6. (a), which enacts that if any officer of the revenue, or other person employed in seizing uncustomed goods, &c. or in endeavouring to apprehend any offender against that act shall be killed by any offender against that act, &c. the inhabitants of every rape or lath in counties so divided, and in every other county of *England* the inhabitants of every hundred where such fact shall be committed shall pay 100l. to the executor or administrator of the person so killed; to be recovered by action against such inhabitants. And that if the plaintiff in such action recover, all the inhabitants of the lath, &c. shall be rateably and proportionably assessed towards the payment of the damages and costs, and also of the expences of defending the action, to be levied by the ways and means, and in the manner and form prescribed by the stat. 8. G. 2. c. 16. relative to actions on the statute of hue and cry. The fact in this case was that the testator, a revenue officer, being in a cutter in pursuit of a smuggling boat in which were offenders against the act, received a shot while in the cutter between high and low water mark, which shot was fired by an accomplice of the smugglers from the shore, within the lath of *St. Augustine*, and the jurisdiction of the

(a) This, which was a temporary act, has been continued by different acts, of which the 26 Geo. 3. c. 80. the last I have any account of, carries it down to the end of the next session of Parliament after 1788. [Mr. East's note to the report.] But see paragraph 3, p. 19. tit. *Excise*, of this work.

Cinque Ports, and lingering for a short time was carried out in the pursuit beyond low water mark, and died in the cutter upon the high sea. And the plaintiff having recovered at the trial in *Kent*, before the Lord Chief Baron,

It was now moved, to set aside the verdict, and enter a nonsuit. The objections taken were these: 1st, that the party having died at sea, out of the jurisdiction of the county, the fact of his being *killed* could not be said to have happened *within the lath of St. Augustin*, whose inhabitants were sued; and that the jury of the county had no jurisdiction to try the action for the penalty. That by *f. 5.* of the act, special provision was made for the trial of any indictment or information for any offence made felony by that or other acts relating to the revenues of customs or excise, in any county in *England*; but no similar provision was made in respect to this action. 2dly, That the place from whence the shot was fired, and where the mortal wound was received, was within the jurisdiction of the Cinque Ports, which has an exclusive commission of the peace, and within which the justices of the county at large cannot interfere. Then, as the money to be recovered by action against the inhabitants of the lath is to be "*levied by the ways and means and in the manner and form prescribed by the statute 8 G. 2. c. 16. ;*" and as by that act (*f. 4.*) the sheriff charged with the writ of execution, "*instead of serving the same on any inhabitants (i. e. of the hundred) shall cause the same to be produced to two justices of the peace of the county, riding, or division,*" who are to cause the taxation to be made and levied in the manner prescribed by stat. 27 *Eliz. c. 13*; there does not seem to be any mode by which the money recovered in this action can be levied, and therefore it is *casus omiffus*, and not within the remedy given by the act. And it was added by Mr. *Marryatt* who made this motion, that, after making inquiry, he could not find that any similar action had been before brought upon this statute: but *Grose J.* said he remembered an instance of such an action brought many years ago, which was tried in the county of *Cornwall*.

Lord *Ellenborough C. J.* The shot which produced the death having been fired from the shore within the lath brings the case within the fair meaning of the act, the object of which was to make the inhabitants of that place where the act was done which caused the death answerable for it, in order to interest them in repressing the offences against which the act was levelled. Then the inhabitants of the lath are mentioned *nominatim* as being liable to pay the money to be recovered by action; and whatever difficulty there may be in applying the directions of the 8 G. 2: as to the

the levying of the money to this case, we will leave that difficulty to be settled when it judicially arises. It is sufficient at present to say that there is no ground for setting aside the verdict which has been obtained. *Per Curiam.* Rule refused. 12 E. R. 244.

Excise (*Warehousing*).

(Vol. II. p. 63.)

By the 50 G. 3. c. 64. various regulations are enacted relative to the removal of goods, wares, and merchandizes from the ports where first warehoused to any other warehousing port for exportation.

(*Malt.*)

(Vol. II. p. 166.)

By the 50 G. 3. c. 34. the exportation of *British* and *Irish* made malt, from one part of the United Kingdom to the other, is allowed; and by the 50 G. 3. c. 53. various regulations are enacted upon this subject.

Friendly Societies.

(Vol. II. p. 431.)

The King v. the Justices of Staffordshire.—*Clifford* applied for a mandamus to the defendants to annul and make void all such rules, orders, and regulations, hereafter mentioned, as should be repugnant to the act of the 33 G. 3. c. 54. for the encouragement and relief of friendly societies, and to allow and confirm all such of the said rules, &c. as should be conformable to the true intent and meaning of the said act. This was moved upon an affidavit stating, that at the *October* sessions 1809 the rules and regulations hereafter mentioned of a certain society therein described, called by the name of “the Benevolent Society of Roman Catholic Secular Clergy Priests, established for their mutual relief and assistance in sickness, infirmity, old age, and so forth, incapacitating them to attend to the duties of their state of life,” were exhibited to the said justices in sessions and subjected to their review, in order that the same might be signed by, and a duplicate thereof on parchment deposited with and filed by the clerk of the peace at such sessions. That the justices adjourned the consideration of the matter to the next sessions, when application was again made to them to allow and confirm the said rules and regulations, or such of

It seems that no society is within the intent and meaning of the Friendly Society act, 33 Geo. 3. c. 54 so as to require the justices in sessions to allow and confirm their rules, &c. in the manner therein provided for, if it appear that the general objects of such society are not confined to the charitable relief and maintenance of its old, sick, and infirm members, their widows and children.

them as were conformable to the statute made in that behalf, and were not otherwise contrary to law; in order that the same might be then signed, deposited, and filed as aforesaid; but the majority of the justices rejected the application altogether.

The rules referred to were, *inter alia*, 1st, That the society shall consist only of Roman Catholic secular clergy priests, who reside within the counties of *Stafford, Salep, Derby, Worcester, Warwick, and Oxford*. 2d, That all Roman Catholic secular clergy priests now officiating with the full powers of their order in any of those counties are, and all such persons as shall be received by the existing superior Roman Catholic clergymen to officiate in like manner, in any of the said counties, may become members on application to the society, and by contributing to the common stock not less than five guineas on admission. The 3d and 4th regulated the appointment of officers among themselves for managing the affairs of the society. The 5th and 6th regulated the management of their funds by an administrator and his assistants. And by the 7th the administrator was prohibited from making payment to any of the members without the consent of the general meeting, or of the existing superior Roman Catholic clergyman of the above counties. By the 8th it was provided that the said superior, being a Roman Catholic secular clergyman, should during his life have a tenth of the yearly income of the society, if he required it. The 9th, 10th, and 11th respected the management of the funds and accounts. And by the 12th any member of this society incapacitated from attending to the duties of his state of life by infirmity, sickness, old age, and so forth, was entitled to receive during such incapacity such sum as should be voted to him by a majority of the members present at a general meeting, for his comfortable and decent support; but if there appeared cause, from misconduct or other reason, to the members present, they might refuse relief; provided that the existing superior and a majority of the members present agreed in such their vote: and the members so voting should not be liable to account for their vote or motion to any but to God. By the 13th, the society and fund were to continue so long as any twelve members were so disposed; and if any member proposed a dissolution of the society or a division of the fund, he was to be expelled.

The court afterwards, upon hearing counsel, discharged the rule in this term. I was not present at the time; but I understood that the court were of opinion that the case was not within the meaning of the act of parliament; the object of the society not being confined to the charitable relief

relief and maintenance of its old, sick, and infirm members.
12 E. R. 280.

[This case, as one arising upon a difficult act of parliament, and deciding an important point, is here inserted verbatim from the report.]

Highway.

(Vol. II. p. 668.)

R. v. The J. of Lancashire, E. 50 G. 3. An indictment was founded at the Lancaster sessions in 1801, against the parish of Eccles, for not repairing a road. Eccles is divided into several townships, and only one undertook the defence, the others not interfering. The defendants were found guilty, and a fine imposed, and levied upon two persons of the parish. Applications were made from time to time on their behalf to the justices for a rate to reimburse them, but without effect. In 1809, the circumstances were laid before the sessions, and they ordered the balance of the money to be paid over to these two persons; but the justices refused to make any order for reimbursement as to the rest.—A mandamus was now moved for to the justices of the county to cause a rate to be made pursuant to the 13 G. 3. c. 78. s. 47. for reimbursing them as to that remainder: This application being 8 years after the original preferring of the indictment, it was refused, the interval being so great, and the inhabitants being in a great proportion changed. 12 E. R. 366.

Juror.

(Vol. II. p. 856.)

Hilt v. Yates, E. 50 G. 3. In this case a motion was made to set aside the verdict obtained by the plaintiff, and to have a new trial, on the ground of a mistrial; because the son of one of the jurymen returned upon the panel had answered to his father's name when called, and had served upon the jury; which fact was now verified by the affidavits of the son, and of the defendant's attorney, and also of the sheriff's officer who summoned the jury, and who swore to having summoned the father and not the son. And he referred to the case of *Norman v. Beaumont, Willes' Rep. 484.*, and *Barnes, 453.*, where, upon great deliberation, a verdict was set aside for the same cause: Also *Wray v. Thorn, Willes, 488.* where a new trial was refused, on an objection taken,

The son of a jurymen summoned and returned, having answered to his father's name when called on the panel, and served as one of the jury on the trial of a cause, is not of itself a sufficient ground for setting aside the verdict, as for a mistrial.

that one of the jurors, whose christian name was *Harry*, named *Henry* in the venire, &c. and had answered to the last name when called and sworn on the jury : but the court had distinguished that from the former case, because the jurymen who served was the person really intended to be returned and summoned.

The court refused to entertain the motion ; but said that if upon consideration, and consultation with the other judges they found themselves bound to grant it, they would of their own accord award the rule prayed for.

Afterwards, on the 2d of *June*, Lord *Ellenborough* C. after adverting to the motion which had been made, and to the two cases which were then mentioned, observed that in the latter of them, the court appeared to have considered the application as a matter within their discretion ; and as injustice having been done, they had refused to interfere. That here all the judges were of opinion, that it was a matter of discretion to grant or refuse a new trial on such a ground, and that if no injustice had been done, which was not pretended in this instance, they would not interfere in that mode, but leave the party to get rid of the verdict as he might. That if they were to listen to such an objection they might set aside half the verdicts given at every assize where the same thing might happen from accident and inadvertence, and possibly sometimes from design, especially in criminal cases. His lordship also now mentioned the case which he had before alluded on the former occasion, where a jurymen answered to another name in the panel, and was sworn and served by that wrong name, upon the trial of a prisoner for forgery, before Mr. Baron *Eyre* at *Newcastle* in 1783 (a) : and though that was the case of a conviction for a capital offence, the judges upon a reference to them would not interfere. There, however, the person who served was summoned upon the jury, but answered to a wrong name. His lordship added, that he had mentioned this matter again in court, in order to put at rest the question once for all, that applications of this sort might not be made again and again. *Per curiam*, rule refused. 12 *E. R.* 249.

(a) See this case, Vol. II. p. 856. it is also in the note subjoined to 12 *E. R.* 230.

Justices of peace.

(Vol. III. p. 40)

As to the effect of the 43 G. 3. c. 141., it is decided by a late case of *Maffey v. Johnson*, (*post*, *Vagrancy*.) that it only extends to cases of convictions in fact. 12 E. R. 67.

Lord's day.

(Vol. III. p. 131.)

By 50 G. 3. c. 73. s. 3. No master, mistress, journeyman, or other person respectively exercising or employed in the trade or calling of a baker, beyond the said city of *London* or the liberties thereof, or beyond the said ten miles of the Royal Exchange, shall on the Lord's day, commonly called *Sunday*, or any part thereof, make or bake any household or other bread, rolls, or cakes of any sort or kind, or shall on any part of the said day, excepting between the hours of ten of the clock in the forenoon and half-past one of the clock in the afternoon, on any pretence whatsoever, sell or expose to sale, or permit or suffer to be sold or exposed to sale, any bread, rolls, or cakes of any sort or kind, or bake or deliver, or permit or suffer to be baked or delivered, any meat, pudding, pie, tart or victuals, at any time after half-past one of the clock in the afternoon of that day, or in any other manner exercise the trade or calling of a baker, or be engaged or employed in the business or occupation thereof, save and except so far as may be necessary in setting and superintending the sponge to prepare the bread or dough for the following day's baking; and that no meat, pudding, pie, tart, or victuals, shall be brought to or taken from any bakehouse during the time of divine service in the church of the parish, hamlet, or place where the same is situate, nor within one quarter of an hour of the time of commencement thereof; and every person offending against the foregoing regulations, or any one or more of them, or making any sale or delivery, hereby allowed between the hours aforesaid, otherwise than within the bakehouse or shop, and being thereof convicted before any justice of the peace of the county, city, or place where the offence shall be committed, within two days from the commission thereof, either upon the view of such justice, or on confession, or proof by one witness upon oath, shall for the first offence forfeit 5s., for the second offence, not exceeding

Limitation as to
baking on
Sunday.

the day of their arrival." And the 20 days mentioned in the latter part of *f. 9.* of the same act, are changed to 28 days, by *f. 9.* of the 50 G. 3. c. 28.

(p. 201.)

By the 50 G. 3. c. 7. *f. 94.* the *f. 93.* is changed as to the term of imprisonment to, "6 months for the first mentioned offence."

(Allowances).

(Vol. III. p. 274.)

The annual allowances herein mentioned besides the pay to which they are entitled during annual exercise, shall be made to lieutenants, surgeons, and ensigns.

By the 50 G. 3. c. 92. it is enacted that the following annual allowances, over and above the pay to which they are now by law entitled, during the time of annual exercise, shall be made and paid to the amount, under the restrictions, and in the manner herein-after expressed, to every subaltern officer now bearing a commission and serving in the militia, who shall continue faithfully to serve in the same corps, or who, previously to the expiration of three months from the passing of this act, shall be duly appointed to a commission, and shall continue faithfully to serve in the embodied militia, and in the same corps until the disembodiment thereof; (that is to say), to a lieutenant or surgeon 25l. 18s. 6d., being at the rate of 1s. 5d. *per diem* for 366 days; and to an ensign 21l. 7s., being at the rate of 1s. 2d. *per diem* for 366 days: provided always, that all such officers of the militia as are now serving with the rank of captain-lieutenant shall be deemed to be lieutenants for the purposes of this act.

Exceptions.

But by *f. 2.* It is provided that no person possessed of such an estate or income as would by law qualify him to hold the commission of captain of a company in the militia, or appointed adjutant or battalion clerk in any regiment, &c. of militia, nor any person deriving in any way whatsoever, otherwise than as a subaltern officer or surgeon of the militia, any income, stipend, or allowance whatever from the public, nor any officer on the full or half pay of the navy, army, or marines, who shall also hold a subaltern's or surgeon's commission, and have served as aforesaid in the militia, shall have the said annual allowances, or any part thereof.

Subalterns and surgeons to take the following

By *f. 3.* The subaltern officers and surgeons of the militia, who shall claim under this act to receive any part of the said annual allowances, shall, previous to receiving the same, and in order to entitle themselves thereto, take and subscribe an oath before some one of his majesty's justices of the peace for the county &c. to which the regiment, battalion, corps,

or

or independent company in which they serve shall belong, in the words or to the effect following ; (*videlicet*),

I A. B. do swear, that I belonged to the ——— of militia when the same was disembodied, and that I have continued to serve therein from that time until the ——— day of ——— inclusive, as a [captain-lieutenant, lieutenant, ensign, or, surgeon, as the case may be], and that I was not, in my own right or in right of my wife, during the said period, in the actual possession and enjoyment or receipt of the rents and profits of lands, tenements, or hereditaments of such an annual value above reprises, as would qualify me to hold a commission of captain of a company in the militia ; that I have not, during the above period, held the appointment of adjutant or battalion clerk in any regiment, battalion, or corps of militia ; that I did not hold or enjoy, nor did or has any person for me hold or enjoy, or held or enjoyed, during the said period, any office or income whatsoever from the public, except my pay as ——— for the period of the corps having assembled to be trained and exercised ; and that I was not entitled during the said period either to the full or half pay of the navy, army, or marines.

Oath.

So help me God.

Which oath, so taken and subscribed, shall be by the said justice forthwith certified and transmitted to the receiver general of the land tax of the county &c. to which the regiment &c. in which such subaltern officer or surgeon shall be then serving, shall belong, if in *England*, or to the receiver general for *Scotland*, if in *Scotland*, to be by him filed and preserved for the purposes herein-after mentioned.

And by s. 4. Every subaltern officer and surgeon of the militia who shall claim to be entitled to the benefits of this act, shall regularly attend the annual exercise and training of the regiment &c. to which he belongs, during the whole of the time by law appointed for that purpose, and shall, during the said time punctually perform his duty as such subaltern officer or surgeon, on pain of forfeiting the said annual allowance, as well as the rest of his pay, and every part thereof which may be due for the current year, in which he shall neglect or refuse to attend ; and certificates of his having so attended and performed his duty, signed by the commanding officer of the regiment &c. to which he may belong, shall be transmitted by the said commanding officer to the lieutenant of the county &c. to which the said regiment &c. shall belong, and also to the receiver general of such county &c. if in *England*, or to the receiver general for *Scotland*, if in *Scotland* : provided always, that in case any such subaltern officer or surgeon claiming to be so entitled, shall by his commanding officer be permitted or suffered, for any special cause or unavoidable necessity, to be absent during the whole or any part of such annual exercise, (in which case it shall

Justices to transmit oaths to the receiver general of the land tax for the county.

Subalterns and Surgeons to attend the annual exercise, on pain of forfeiting the allowance and their pay.

Certificates of such attendance to be transmitted by the commanding officer to the lieutenant and receiver general of the county.

In case of leave of absence, the reason for granting it to be inserted in the certificate.

be

be lawful for such commanding officer to grant such leave of absence, and for such subaltern officer or surgeon who may be so permitted to be absent, to demand and receive the said annual allowance, and every part thereof, as if he had attended during the whole of the said annual exercise, the reasons for such absence, as well as the duration thereof, shall be carefully and truly specified in certificates (in lieu of those before mentioned), to be signed by the commanding officer, and to be transmitted as soon as conveniently may be to the lieutenant of the county &c. to which the regiment, &c. wherein such subaltern or surgeon shall be serving, shall belong, and also to the receiver general &c. &c.

If militia be not called out to annual exercise, the subalterns and surgeons still to be entitled to allowance.

By *f. 5.* In case any regiment, &c. after the disembodiment thereof, and before the respective days herein-after fixed for the half-yearly payment of the said annual allowances, shall not be called out for the annual exercise and training thereof, every subaltern officer and surgeon belonging to any such regiment &c. and coming within the descriptions of this act, who shall have taken and subscribed the oath herein-before mentioned, before any such justice as aforesaid, shall be entitled to the said annual allowance, as if he had regularly attended the annual exercise and training of such regiment &c. during the whole of the time by law appointed for that purpose, and as if a certificate of such attendance, signed by the commanding officer of the said regiment, &c. had been transmitted to the lieutenant of the county &c. to which such regiment &c. shall belong, and also to the receiver general &c. &c.

Allowances to be paid without deductions.

By *f. 6.* Upon such certificates as aforesaid of such justice and commanding officer as aforesaid, or (where any regiment &c. shall not have been called out to their annual exercise as aforesaid,) upon a certificate of any such justice only being produced to or received by the respective receivers general, such receivers general shall pay to the said subaltern officers and surgeons, according to their respective commissions of lieutenant, ensign, or surgeon, in addition to their pay, for the time of training and exercise, one moiety of the annual allowance above mentioned on the 24th of *Sept.* next, and the other moiety of the same on the 24th of *March* 1811, without any deduction whatsoever, out of any public monies in their hands, and shall charge the same in their respective annual accounts of money disbursed for the use of the public; the certificates before mentioned to be by them preserved and produced among the vouchers for the payments from time to time made by them in pursuance of this act.

Subalterns and surgeons not attending when called upon, to forfeit their

And by *f. 7.* The subaltern officers and surgeons of the militia, entitled to the benefits of this act, shall at all times be liable to serve in the respective regiments, &c. to which they

they belong, whenever the same shall be embodied, and called out upon actual service; and in case of neglect or refusal to attend when called upon, or in case any such subaltern officer or surgeon shall at any time wilfully neglect or refuse to attend, and perform his duty at the annual exercise as before directed, and at such other times, or for such other occasions, as may be required of him in pursuance of the laws now in force respecting the militia when disembodied, every such subaltern officer and surgeon shall, upon such neglect or refusal being certified to the lord lieutenant by the colonel or other commandant of the regiment &c. to which such subaltern or surgeon shall belong, forfeit his claim to the said annual allowance, and every part thereof, and shall also be considered as having resigned and vacated his commission, to all intents and purposes whatsoever.

And by *f. 8.* The said several annual allowances shall be paid to the persons respectively entitled thereto, by the receivers general of the land tax in *England*, and the receiver general for *Scotland* respectively, upon the production of the before mentioned several certificates, on or as soon after the 24th of *Sept.* next, and the 24th of *March* 1811 respectively, as may be convenient and practicable: provided always, that nothing in this act contained shall extend to entitle any subaltern officer or surgeon as aforesaid to the said annual allowance, or any part thereof, during the time the militia to which he belongs shall be embodied or ordered out on actual service: provided also, that this act, and the benefits and allowances therein contained, shall not extend to more than ten lieutenants in any regiment consisting of more than ten companies; to more than nine lieutenants in any regiment consisting of more than eight and less than eleven companies; to more than eight lieutenants in any regiment consisting of more than six and less than nine companies; or to more than five lieutenants in any regiment, battalion, or corps, consisting of six or of a less number of companies, except where the companies consist of ninety private men each or upwards, in which case this act, and the benefits and allowances therein contained, may be extended to eighteen lieutenants in any regiment consisting of more than ten companies; to sixteen lieutenants in any regiment consisting of more than eight and less than eleven companies; to fourteen lieutenants in any regiment consisting of more than six and less than nine companies; and to nine lieutenants in any regiment, battalion, or corps, consisting of six or of a less number of companies.

By *f. 9.* In case in any regiment &c. at the time of disembodied thereof, there shall happen to be a greater number of lieutenants coming within the descriptions of this act, than can be entitled to claim the benefits thereof, within the true

Allowances to be paid by receiver general on production of certificates;

but not to be paid while the militia is embodied.

Allowances to extend only to a certain number.

Senior lieutenants to have the preference, and the junior to succeed on vacancies.

intent and meaning of the foregoing proviso, the senior lieutenants of such number shall always be preferred, and shall be alone entitled to demand and receive the above mentioned allowances; and the junior lieutenants shall succeed to such allowances in rotation, as vacancies may happen among the said senior lieutenants from time to time.

Military Law (*Militia*—completing.)

(Vol. III. p. 334.)

By the 50 G. 3. c. 24. s. 1. The deputy lieutenants are required at the general meetings held for the — militia, to apportion and distribute any excess of men over and above the number which may have enlisted into the line, and at any general meetings held for that purpose, to alter from time to time such apportionments, and make new or further apportionments, and place the men to any other parishes for the purpose of just distribution of such men. And such apportionments shall be made either by ballot and entering upon lists of names of parishes, or otherwise as shall seem most proper to produce an equal distribution of such men, and apportionment of men raised under the 49 G. 3. c. 53. And the men so distributed shall belong to such parishes, as to relief and supplying of vacancies, as if they had been substitutes or volunteers for such parishes.

Military Law (*Local Militia*).

(Vol. III. p. 392.)

If the numbers allowed of non-commissioned officers and drummers of local militia on permanent pay be ordered to be reduced, the commandant of any corps may agree with non-commissioned officers &c. to serve on reduced pay, who shall take the following

By the 50 G. 3. c. 25. reciting the titles of the 48 G. 3. c. 111. 49 G. 3. c. 40. and c. 82., It is enacted, that in every case in which his majesty shall have ordered, or shall hereafter order that the serjeants, corporals, and drummers of the local militia allowed to remain on permanent pay, shall be reduced in any proportion below the number allowed by the several acts relating to the local militia, the commanding officer of any regiment, battalion, or corps, with the approbation of the lieutenant or vice lieutenant, or deputy lieutenant acting for the lieutenant, in case the lieutenant shall be absent, and of his majesty's secretary of state, may agree with the serjeants, corporals or drummers of his regiment &c. or any of them, or with any other persons willing to engage to serve as such, to serve as serjeants &c. upon any reduced pay, during the periods of the regiment, &c. not being assembled for exercise in such manner as shall be authorized by the secretary of state in that behalf, and every serjeant, &c. agreeing so to serve shall take the following

ing oath before some deputy lieutenant or justice of the peace of the county, or magistrate of the place to the local militia of which he shall belong ; (that is to say),

I A. B. *do engage to serve as a* [serjeant, corporal, or drummer, as the case may be] *in the local militia of — until I shall be duly discharged, upon the terms of receiving — during such periods as such local militia shall not be embodied or assembled for exercise.* Oath.

And every such oath shall be reduced to writing, and signed and attested by the deputy lieutenant &c. administering the same, and delivered to the commanding officer of the regiment &c. to which the serjeant &c. shall belong, and a duplicate shall, if required, be given to the said serjeant &c. ; and every serjeant &c. engaging so to serve, shall be compellable to serve in the local militia for the full period of his services under the acts relating thereto, as if he had received the full pay of his rank therein, and shall be subject to the provisions contained in any mutiny act ; and any commanding officer of local militia who shall engage any serjeants &c. so to serve may retain such number of serjeants &c. as shall be allowed by his majesty's secretary of state, so as that the whole amount of such reduced pay shall not exceed the amount of the full pay of the number allowed in any such order of reduction.

By s. 2. Every officer, non-commissioned officer, and private man of the local militia, who shall during the period of the regiment &c. to which he shall belong being embodied or assembled for training and exercise, or for the suppression of riots and tumults, have been guilty of any offence against any mutiny act in force, and shall have been put under arrest for, or shall have been reported to any officer of his regiment &c. to have committed such offence before the disembodiment or dismissal thereof &c. may be tried by any general or regimental court martial consisting of officers of the militia, and if found guilty may be punished, although the regiment &c. to which he shall belong, shall not then be embodied or assembled, in like manner as any officer &c. of the regular militia may be tried during the period of the regular militia being embodied.

Offences may be tried by a court martial after the disembodiment of the regiment, &c. if committed prior thereto.

By s. 3. After the passing of this act, the number of days of attendance at muster and exercise of volunteer corps, to entitle any person serving in volunteer corps to exemption from service in the regular militia and the local militia, shall be eighteen days, or any such number of days not exceeding eighteen, as shall be fixed by his majesty, instead of twenty-four days ; and the act of the 44 G. 3. relating to volunteers, and other acts relating to them, shall be construed, as to all returns and certificates of commanding offi-

Days of muster and exercise.

gers of such corps or others, as if the number of days specified had been eighteen, or such number as shall be so fixed as aforesaid instead of twenty-four; and such number of eighteen days or such other number as aforesaid, shall in like manner be divided into six days, or three equal parts in each four months, instead of eight days as is, in the said act provided, with such provisions as to making good any number of days at different periods, as is provided in relation to the days of exercise specified in the said acts, and every certificate shall specify the number of days of exercise of the person claiming the benefit thereof.

Suspension of
fines for defici-
encies.

By *s. 5.* As much of the said 48 G. 3. c. 111. as enacts, that a fine of fifteen pounds shall be paid in respect of every man deficient on *Feb. 14th*, is suspended: Provided always, that every county, hundred, and parish, shall be subject to the full penalties by the said act imposed and hereby suspended, in respect of every man of any regiment assembled for training and exercise not joining during such training and exercise, and whose vacancy shall not be supplied within three months after the day of assembling of the local militia to which such man shall have belonged, and such proportion of such fine shall be returned within the periods of one and two months respectively after the expiration of such three months, as are in the said act specified in relation to deficiencies supplied within certain periods after *Feb. 14.*

Constables to
make returns,
and ascertain
deficiencies to be
supplied.

By *s. 6.* The constables and other officers of all parishes and places for which any local militia man shall be serving, shall make diligent enquiry as to all men enrolled in the local militia, for their parishes or places respectively, and shall, before *Nov. 14th* in each year, return to the clerk of their subdivision, a true account of all persons so serving, specifying such as shall have died or left their residence, and whether the persons not then residing in such parish or place shall have wholly left, or shall still retain any house, residence, or lodging, and also the place to which such persons shall have gone as have changed their residences, if the same can be ascertained; and for default herein every constable for any wilfully false return, shall forfeit for each offence 5*s.* to be recovered and applied as any like penalty may be recovered under any act relating to the militia; and all deficiencies which shall by any such returns be ascertained to have taken place, and shall have been returned to the clerk of subdivision meetings of the division or place in which the same shall have arisen, before *Nov. 14th* in any year, shall be supplied before *Feb. 14th* next succeeding, under such penalty for any default therein as is specified in the said recited act.

By *f. 7.* Every person who shall have received any bounty in respect of being enrolled in the local militia who shall afterwards enlist, and who shall not declare his true name and the parish for which he is serving, so as to enable a deduction and return and repayment to be made in respect of such bounty, and every serjeant or non-commissioned officer who shall knowingly enlist any such person and not deduct such bounty, shall forfeit double the amount of the bounty so to be deducted, to be stopt out of the pay of the man so enlisting, or of such serjeant or non-commissioned officer, in such manner as the commanding officer of the regiment into which such man shall enlist, shall direct, so as that the same shall be stopt, and the whole of such fine remitted and paid to the agent general for the local militia, or to his order, for the use of the parish entitled to the return of bounty.

Penalty on persons receiving bounty who shall afterwards enlist, and shall not declare his name and the parish for which they are serving, &c.

By *f. 8.* Every local militia man enlisting or entering into the army, navy, or marines, or enrolled as a volunteer or substitute in the embodied militia, shall declare to the person from whom he shall receive the bounty upon such enlisting, &c. the regiment of local militia to which he belonged, and the period at which he was enrolled therein, and for what parish and in what county he was serving, and the amount of the bounty (if any) which he received on being so enrolled in the local militia; and the sum which shall have been paid to such local militia man upon his being enrolled in the local militia, shall be deducted from the bounty to which such man shall be entitled upon enlisting into the regulars or into the regular militia (as the case may be) and shall be paid, if such person shall enlist into the line, to the paymaster of the district into which such man shall enlist, and accounted for to the parish for which such man was serving, and shall be repaid to such parish under the provisions of this act; and the name of such person, and his regiment and county, and the parish for which he was serving, and the amount of the bounty paid to the paymaster of the district, shall be returned by the officer commanding the party with which such man shall have enlisted to the agent general of the local militia, and shall be repaid to the parish entitled thereto, in such manner and under such order as shall be made by such agent general in that behalf.

Local militia men enlisting into the army or navy, &c. to declare the regiment, period, parish, and bounty for which serving.

And by *f. 9.* Whereas certain persons have been enrolled for the local militia by justices, without the presence of a dep. lieut. it is enacted, that the enrolment of all such persons who shall have been so enrolled before the passing of this act, and shall have taken the oaths, shall be deemed good, as if the dep. lieut. had been present, and the said justices are indemnified for the same.

Indemnifying justices of the peace, who have enrolled men without deputy lieutenant being present.

By *f. 10.* The qualification of captains, lieutenants, and ensigns shall be of the same yearly value, if real estate, or

Qualification of captains, lieutenants, and ensigns.

Commissions in fencible regiments to require no other qualification.

Apportionments and enrolments in parishes in which the volunteers have not been taken as part of the number required, declared valid.

Future apportionments shall have regard to the volunteers actually serving.

Friendly societies not to fine their members while serving in the militia, for non-attendance.

Apprentices restricted from transferring their services.

Fine for non-enrolment to exempt from the regular militia for two years.

of the same amount in value, in personal estate, as the qualification of captains, &c. respectively in the regular militia, for cities and towns being counties of themselves.

By *f. 11.* Every officer who shall have held any commission in any fencible regiment, battalion, or corps, shall be eligible and qualified to hold any commission of the same rank in the local militia, without any other qualification.

By *f. 12.* Whereas doubts have arisen as to the apportionments and enrolments of men for the local militia, which have been made for parishes in which the volunteers actually serving have not been taken as part of the number required by the said 48 G. 3. c. 111. for such parishes for the local militia; it is enacted, that all such apportionments and enrolments, and all things done in pursuance thereof, shall be deemed good to all intents whatever; provided always, that in every such case all future apportionments for the supplying of any deficiencies or vacancies which may thereafter arise in any county or division, or part of any county or parishes, in or for which any such apportionments have been made, or enrolments have taken place, shall have regard to the volunteers actually serving in the several divisions or parts of the county, or in or for the several parishes thereof, or part of the quota or proportions of local militia of such divisions, parts, or parishes.

By *f. 13.* No member of any friendly society, serving or entering to serve in the local militia, shall by such service be subject to any fine or penalty imposed by such society for non-attendance during the time of such service; any thing in any rule or bye-law of such society notwithstanding.

By *f. 14.* No apprentice, being a member of any volunteer corps, shall transfer himself into the local militia without the consent of his master.

By *f. 15.* Every person who shall have been ballotted, and also shall have paid any fine for not appearing to be enrolled in the local militia, shall be exempt from being ballotted to serve in the regular militia for the period of two years from the period of his having been ballotted to serve in the local militia.

Offices.

(Vol. III. p. 462.)

[As the following act is of great importance, it is thought fit to insert it here, for the sake of general information, though not immediately connected with the duties of a justice of the peace.]

By the 49 G. 3. c. 126. *f. 1.* Reciting that by the 5 & 6 Ed. 6. c. 16. it was enacted, amongst other things, that if any

any person or persons at any time thereafter bargained or sold any office or offices, or deputation of any office or offices, or any part or parcel of any of them, or received, had, or took any money, fee, reward, or any other profit, directly or indirectly, or took any promise, agreement, covenant, bond, or any assurance, to receive or have any money, fee, reward, or other profit, directly or indirectly, for any office or offices, or for the deputation of any office or offices, or any part of any of them, or to the intent that any person should have, exercise, or enjoy any office or offices, or the deputation of any office or offices, or any part of any of them, which office or offices, or any part or parcel of them, should in anywise touch or concern the administration or execution of justice, or the receipt, controlment, or payment of any of the king's highness treasure, money, rent, revenue, account, aulnage, auditorship, or surveying of any of the king's majesty's honors, castles, manors, lands, tenements, woods, or hereditaments, or any of the king's majesty's customs, or any other administration or necessary attendance to be had, done, or executed in any of the king's majesty's custom house or houses, or the keeping of any of the king's majesty's towns, castles, or fortresses, being used, occupied, or appointed for places of strength and defence, or which should concern or touch any clerkship to be occupied in any manner of court of record, wherein justice was to be ministered, that then all and every such person and persons that should so bargain or sell, &c. should not only lose and forfeit all his and their right, interest, and estate which such person or persons should then have of, in, or to, any of the said office or offices, deputation or deputations, or any part of any of them, or of, in, or to, the gift or nomination of any of the said office or offices, deputation or deputations, for the which office or offices, or for the deputation or deputations of which offices, or for any part of any of them, any such person or persons should so make any bargain or sale, or take or receive any sum of money, fee, reward, or profit, or any promise, covenant, or assurance, to have or receive any fee, reward, money, or profit, but also that all and every such person or persons that should give or pay any sum of money, reward, or fee, or should make any promise, agreement, bond, or assurance for any of the said offices, or for the deputation or deputations of any of the said office or offices, or any part of any of them, should immediately by and upon the same fee, money, or reward given or paid, or upon any such promise, covenant, bond, or agreement had or made for any fee, sum of money, or reward, to be paid as is aforesaid, be adjudged a disabled person in the law to all intents and purposes, to have, occupy, or enjoy,

the said office or offices, deputation or deputations, or any part of any of them, for the which such person or persons should so give or pay any sum of money, fee, or reward, or make any promise, covenant, bond, or other assurance, to give or pay any sum of money, fee, or reward; and that all and every such bargains, sales, promises, bonds, agreements, covenants, and assurances as before specified, should be void to and against him and them by whom any such bargain, sale, bond, promise, covenant, or assurance should be had or made: and whereas it was in the said act provided, that the said act, or any thing therein contained, should not in anywise extend to any office or offices, whereof any person or persons was or should be seised of any estate of inheritance, nor to any office of parkership, or of the keeping of any park, house, manor, garden, chase, or forest, or to any of them: and whereas it was by the said act further provided, that if any person or persons did thereafter offend in any thing contrary to the tenor and effect of the said act, yet that notwithstanding all judgments given, and all other act and acts executed or done by any such person or persons so offending, by authority or colour of the office or deputation which ought to be forfeited or not occupied or not enjoyed by the person so offending, after the said offence so by such person committed or done, and before such person so offending for the same offence should be removed from the exercise, administration, and occupation of the said office or deputation, should be and remain good and sufficient in law, to all intents, constructions, and purposes, in such like manner and form as the same would or ought to have remained and been if this act had never been had or made: and whereas it was by the said act further provided, that the said act or any thing therein contained, should not in anywise extend, or be prejudicial or hurtful to any of the chief justices of the king's courts, commonly called the king's bench or common place, or to any of the justices of assize, that then were or thereafter should be, but that they and every of them might do in every behalf touching or concerning any office or offices to be given or granted by them or any of them, as they or any of them might have done before the making of the said act: it is declared and enacted that from and after the passing of this act, the said act and all the provisions therein contained shall extend and be construed to extend to *Scotland and Ireland*, and to all offices in the gift of the crown or of any office appointed by the crown, and all commissioners civil, naval or military, and to all places, and employments, and to all deputations to any such offices, commissions, places, or employments in the respective departments or offices, or under the appointment of

Provisions of
5 & 6 Ed. 6.
c. 16. extended
to other offices

or superintendence and controul of the lord high treasurer or commissioners of the treasury, the secretary of state, the lords commissioners for executing the office of lord high admiral, the master general and principal officers of his majesty's ordnance, the commander in chief, the secretary at war, the paymaster general of his majesty's forces, the commissioners for the affairs of *India*, the commissioners of the excise, the treasurer of the navy, the commissioners of the navy, the commissioners for victualling, the commissioners of transports, the commissary general, the storekeeper general, and also the principal officers of any other public department or office of his majesty's government in any part of the united kingdom, or in any of his majesty's dominions, colonies, or plantations which now belong or may hereafter belong to his majesty, and also to all offices, commissions, places and employments belonging to or under the appointment or controul of the united company of merchants of *England* trading to the *East Indies*, in as full and ample a manner as if the provisions of the said act were repeated as to all such offices, commissions, places, and employments, and made part of this act; and the said act and this act, and all the clauses and provisions therein respectively contained, shall be construed as one act, as if the same had been herein repeated and re-enacted.

f. 2. Provided always, that where the right, estate, or interest of any person or persons shall be forfeited under any of the provisions of the said act or this act, the right of such appointment shall immediately vest in and belong to his majesty, his heirs and successors.

When right of appointment forfeited, to go to his majesty.

f. 3. It is further declared and enacted, that from and after the passing of this act, if any person or persons shall sell or bargain for the sale of, or receive, have, or take any money, fee, gratuity, loan of money, reward, or profit, directly or indirectly, or any promise, agreement, covenant, contract, bond, or assurance, or shall by any way, device or means contract or agree to receive or have any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, and also if any person or persons shall purchase or bargain for the purchase of, or give or pay any money, fee, gratuity, loan of money, reward or profit, or make or enter into any promise, agreement, covenant, contract, bond or assurance to give or pay any money, fee, gratuity, loan of money, reward or profit, or shall by any way, means or device, contract or agree to give or pay any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, for any office, commission, place or employment specified or described in the said recited act or this act, or within the true intent or meaning of the said act, or this

Persons buying or selling offices, or receiving or paying money or rewards for offices, guilty of a misdemeanour.

act, or for any deputation thereto, or for any part, parcel, or participation of the profits thereof, or for any appointment or nomination thereto or resignation thereof, or for the consent or consents, or voice or voices of any person or persons to any such appointment, nomination or resignation, then and in every such case, every such person, and also every person who shall wilfully and knowingly aid, abet or assist such person therein, shall be deemed and adjudged guilty of a misdemeanor.

Persons receiving or paying money for soliciting offices, and any negotiations or pretended negotiations relating thereto, guilty of a misdemeanor.

§. 4. From and after the passing of this act, if any person or persons shall receive, have, or take any money, fee, reward, or profit, directly or indirectly, or take any promise, agreement, covenant, contract, bond, or assurance, or by any way, means, or device, contract or agree to receive or have any money, fee, gratuity, loan of money, reward or profit, directly or indirectly, for any interest, solicitation, petition, request, recommendation, or negotiation whatever, made or to be made, or pretended to be made, or under any pretence of making or causing or procuring to be made any interest, solicitation, petition, request, recommendation or negotiation, in or about or in anywise touching, concerning, or relating to any nomination, appointment, or deputation to or resignation of any such office, commission, place or employment as aforesaid, or under any pretence for using or having used any interest, solicitation, petition, request, recommendation or negotiation, in or about any such nomination, appointment, deputation or resignation, or for the obtaining or having obtained the consent or consents or voice or voices of any person or persons as aforesaid to such nomination, appointment, deputation, or resignation; and also if any person or persons shall give or pay or cause or procure to be given or paid any money, fee, gratuity, loan of money, reward or profit, or make or cause or procure to be made any promise, agreement, covenant, contract, bond or assurance, or by any way, means, or device, contract or agree or give or pay or cause or procure to be given or paid any money, fee, gratuity, loan of money, reward, or profit for any solicitation, petition, request, recommendation or negotiation whatever, made or to be made, that shall in anywise touch, concern, or relate to any nomination, appointment, or deputation to or resignation of any such office, commission, place, or employment as aforesaid, or for the obtaining or having obtained, directly or indirectly, the consent or consents, or voice or voices of any person or persons as aforesaid to any such nomination, appointment, deputation, or resignation; and also if any person or persons shall, for or in expectation of gain, fee, gratuity, loan of money, reward, or profit, solicit,

recommend, or negotiate in any manner for any person or persons in any matter that shall in anywise touch, concern, or relate to any such nomination, appointment, deputation or resignation aforesaid, or for the obtaining, directly or indirectly, the consent or consents, or voice or voices of any person or persons to any such nomination, appointment, or deputation or resignation aforesaid, then and in every such case every such person, and also every person who shall wilfully and knowingly aid, abet, or assist such person therein, shall be deemed and adjudged guilty of a misdemeanor.

f. 5. Whereas on the pretence of negotiating or soliciting the sale, transfer, or appointment of any office or offices which under the exception of this act or otherwise it may be lawful to sell, offices for negotiating the same, and advertisements may be published, by means and under the colour of which illegal transactions intended to be prohibited by this act may be carried on; be it therefore further enacted, that from and after the passing of this act, if any person or persons shall open or keep any house, room, office, or place for the soliciting, transacting, or negotiating in any manner whatever any business relating to vacancies in, or the sale or purchase of, or appointment, nomination, or deputation to, or resignation, transfer, or exchange of any offices, commissions, places, or employments whatever in or under any public department, then and in every such case every such person, and also every person who shall wilfully and knowingly aid, abet, or assist therein, shall be deemed and adjudged guilty of a misdemeanor.

Persons opening or advertising houses for transacting business relating to the sale of offices, guilty of a misdemeanor.

f. 6. If any person or persons shall advertise or publish, or cause or procure to be advertised or in any manner published any house, room, office, or place to have been or to be opened, set up, or kept for any of the purposes aforesaid, or advertise or publish, or cause or procure to be advertised or published, the name or names of any person or persons as broker or brokers, agent or agents, solicitor or solicitors for any of the purposes aforesaid, or print or cause or procure or permit or suffer to be printed or advertised any advertisement or advertisements, proposal or proposals for any of the purposes aforesaid, then and in such case such person or persons shall forfeit for every such offence the sum of 50*l.* to be sued for, levied, or recovered in any of his majesty's courts of record at *Westminster*, as to all offences committed in *England*, or at *Dublin* as to offences committed in *Ireland*, or in his majesty's courts in *Scotland* as to offences committed in *Scotland* respectively; and the whole of every such penalty shall go to the person who shall sue for the same, with full costs of suit.

Inflicting a penalty on persons advertising or publishing the names of brokers or agents.

f. 7. Nothing

Act not to extend to purchase or sale of commissions for the regulated prices, or authorized regimental agents acting in such sales according to regulation, without fee or reward.

§. 7. Nothing in this act contained shall extend or be construed to extend to any purchases, sales, or exchanges of any commissions or appointments in the honourable band of gentlemen pensioners, or in his majesty's yeoman guard, or in the marshalsea, and the court of the king of the palace of the king at *Westminster*, or to extend to any purchases, sales, or exchanges of any commissions in his majesty's forces for such prices as shall be regulated and fixed by any regulation made or to be made by his majesty in that behalf, or to any act or thing done in relation thereto, by any agents, provided that such agents shall be agents of regiments authorized by the commander in chief of his majesty's forces, or by the colonels or commandants of regiments or corps, and shall act therein under such regulations only as are or shall from time to time be established by his majesty, and shall not cause or procure, or knowingly permit or suffer to be printed or advertised, any advertisement or advertisements, proposal or proposals for any purchase or sale or exchange of any commission, or any negotiation relating thereto, and shall not receive or take any money, fee, gratuity, or reward, or any promise, agreement, covenant, contract, bond, or assurance, or by any way, means, or device, contract or agree to receive or have any money, fee, gratuity, or reward, for acting in such behalf.

Officers in army giving more than regulated prices, or paying agents for negotiating, to forfeit their commissions, and be cashiered; their commissions to be sold, and half of the produce, when not exceeding a certain sum, to go to informer.

§. 8. Every officer in his majesty's forces, who shall take, accept, or receive, or pay, or agree to pay, any larger sum of money, directly or indirectly, than what is allowed by any regulations made by his majesty in relation to the purchase, sale, or exchange of commissions in his majesty's forces, or who shall pay, or cause to be paid, any sum of money, to any agent or broker, or other person, for negotiating the purchase or sale or exchange of any such commission, shall, on being convicted thereof by a general court martial, forfeit his commission, and be cashiered; and as an encouragement for the detection of such practices, such commission so forfeited shall be sold, and half the regulated value (not exceeding 500l.) shall be paid to the informer, and the other half, or the remainder, if more than 500l. shall go and be applied as his majesty shall order and direct, by any regulations from time to time made in that behalf: provided also, that every person who shall sell his commission in his majesty's forces, and not continue to hold any commission in his majesty's forces, and shall, upon or in relation to such sale, take, accept, or receive, directly or indirectly, any money, fee, gratuity, loan of money, reward, or profit, or any promise, agreement, covenant, contract, bond, or assurance, or shall by any device or means contract or agree to receive or have any money, fee, gratuity, loan of

money,

money, reward, or profit, beyond the regulated price or value of the commission sold, and also every person who shall wilfully or knowingly aid, abet, or assist such person therein, shall be deemed and adjudged guilty of a misdemeanor within the provisions of this act.

By *f. 9.* It is provided that nothing in this act contained shall extend or be construed to extend to any office excepted from the provisions of the said act passed in the sixth year of the reign of king *Edward* the Sixth against buying and selling of offices, or to any office which was legally saleable before the passing of this act, and in the gift of any person by virtue of any office of which such person is or shall be possessed under any patent or appointment for his life, or to render invalid, or in any manner to affect any promise, agreement, covenant, contract, bond, assurance, or trust, entered into or declared before the passing of this act, and which before the passing thereof was a valid promise, agreement, covenant, contract, bond, assurance, or trust, in law or equity, or to any money paid, or to any act, matter, or thing done in pursuance of any such promise, agreement, covenant, contract, bond, or assurance.

Act not to extend to offices excepted in former act, nor to securities or transactions under legal securities.

And by *f. 10.* That nothing in this act contained shall extend or be construed to extend to prevent or make void any deputation to any office, in any case in which it is lawful to appoint a deputy, or any agreement, contract, bond, or assurance lawfully made in respect of any allowance, salary, or payment made or agreed to be made by or to such principal or deputy respectively, out of the fees or profits of such office.

Act not to extend to lawful deputations where payment of principal or deputy is out of the fees.

And by *f. 11.* That nothing in the said act or in this act contained shall extend to any annual reservation, charge, or payment made or required to be made out of the fees, perquisites, or profits of any office to any person who shall have held such office, in any commission or appointment of any person succeeding to such office, or to any agreement, contract, bond, or other assurance made for securing such reservation, charge, or payment: provided always, that the amount of such reservation, charge, or payment, and the circumstances and reasons under which the same shall have been permitted, shall be stated in the commission, patent, warrant, or instrument of appointment of the person to succeed to and holding such office, and paying or securing such money as aforesaid.

Act not to extend to annual payments out of the fees of any office, to any person formerly holding such office.

f. 12. Relates to certain offices in *Ireland*.

And *f. 13.* To the manner of punishing offenders in *Scotland*.

By *f. 14.* All offences committed against the provisions of the said recited act and this act, by any governor, lieutenant

Offences committed abroad shall be tried in governors, king's bench.

governors, or person having the chief command, civil or military, in any of his majesty's dominions, colonies, or plantations, or his or their secretary or secretaries, may and shall be prosecuted and enquired of, and heard and determined in his majesty's court of king's bench at *Westminster*, in like manner as any crime, offence, or misdemeanor committed by any person holding a public employment abroad, may be prosecuted and enquired of under the provisions of an act passed in the forty-second year of the reign of his present majesty, intituled, *An act for the trying and punishing in Great Britain persons holding public employments, for offences committed abroad; and for extending the provisions of an act passed in the twenty-first year of the reign of king James, made for the ease of justices and others in pleading in suits brought against them, to all persons either in or out of this kingdom, authorized to commit to safe custody.*

Commencement
of the act in
certain places
abroad.

By s. 15. Nothing in the said recited act or this act contained shall extend or be construed to extend to *Gibraltar*, *Malta*, or any place or places in the *Mediterranean*, until three months; or to any of his majesty's dominions, colonies, or plantations in *America* or the *West Indies*, until four months; or to the *Cape of Good Hope*, the island of *Saint Helena*, or any part of *Africa*, until six months; or to any of his majesty's dominions in the *East Indies* or beyond the *Cape of Good Hope*, until twelve months, after the passing of this act.

Door.

(Vol. IV. p. 124.)

By the 50 G. 3. c. 52. the 8 & 9 W. c. 30. s. 2. is repealed.

Stamps.

(Vol. V. p. 348.)

Improper stamps, for denoting the ad valorem duties, where inadvertently used, may be cancelled, and others given, &c.

By the 50 G. 3. c. 35. s. 13. It is enacted, that after the passing of this act, where any person shall have inadvertently used for or upon any instrument liable to a stamp duty under the 48 G. 3. c. 149. any stamp or stamps of greater value than the instrument required by the sum of fifty shillings or upwards, and also where of the value of fifty shillings

gs or upwards, for or upon any instrument not liable to stamp duty, and also where any person shall have inadvertently used for or upon any instrument liable to a stamp duty under the 48 G. 3. c. 149. any stamp or stamps the value of fifty shillings or upwards (exclusive of any progressive duty) but which shall be of less value than the instrument required, it shall be lawful for the commissioners of stamps to allow as spoiled and to cancel the stamp or stamps misused in the several cases aforesaid, and to give another stamp or stamps of the same description and value, or otherwise, at their discretion, where it shall appear to them to be expedient, stamps of any other description and of equal value in lieu thereof, and to cause the instrument bearing the stamp or stamps misused if liable to any duty to be stamped with the proper stamp or stamps for denoting the duty chargeable thereon upon payment of such duty, without demanding any penalty in respect thereof; or if another instrument of the same tenor and effect shall be produced duly stamped and duly executed, and the instrument bearing the stamp or stamps misused shall be delivered up to be cancelled, it shall be lawful for the said commissioners to allow as spoiled, and to cancel the stamp or stamps thereon, and to give another stamp or stamps of the same description and value, or otherwise, at their discretion, where it shall appear to them to be expedient, stamps of any other description and of equal value in lieu thereof: provided always, that the application for such relief shall be within three calendar months after the passing of this act or within two calendar months after the date of the instrument bearing the stamp or stamps misused; and provided it shall be made appear to the satisfaction of the said commissioners, in cases where the stamp or stamps misused shall be of less value than the instrument required, that the same were so used by mistake, or under a misapprehension of the law, and without any intention to avoid or delay the payment of the full duty charged on such instrument.

Conditions.

And further by s. 14. After the passing of this act, it shall be lawful for the commissioners of stamps to allow as spoiled, and to cancel, and in the manner aforesaid to give other stamps in lieu of all such stamps as shall have been used for or upon any instruments which shall have been executed or signed by any of the parties thereto, but which by reason of any mistake therein shall be afterwards found unfit for the purpose intended, or which by reason of the death of any party thereto, without having executed or signed the same, cannot be completed so as to affect the transaction intended in the form proposed, and which shall in consequence be cancelled and delivered up to the said commissioners as useless,

Commissioners of stamps may give other stamps for such as may be spoiled or found unfit to be used, through mistake &c.

court, that the act was confined to those cases in which there were *convictions* in fact, the rule stood absolute.

At the second trial it appeared that the plaintiff, who had previously resided at *Wilmslow* in the parish of *Bollenfee* in *Cheeshire*, where he had property in houses estimated at 7 or 800l., had been imprisoned under civil process from some time in 1806 till the 27th of *Feb.* 1808, when he was discharged : and that on the 15th of *March* he came to a friend's house near *Wilmslow*, and removed from thence on the 21st to another place in the neighbourhood. That during the greater part of the time the plaintiff was absent from home, he left his wife and children without any provision, and the latter were maintained by the parish of *Bollenfee* in their poor house. That *Thomas Smith*, an overseer of the poor of *Bollenfee*, had complained on this subject both to the defendant and to others, and the defendant had ordered the parish officers to relieve the plaintiff's family ; but *Smith* himself expressly negatived that any information or complaint upon oath was ever made by him to the defendant against the plaintiff for any supposed act of vagrancy. That on the 26th of *March* 1808 the defendant delivered to the constable of *Stockport* a warrant to apprehend the plaintiff, dated the 19th of that month ; which reciting that *Thomas Smith*, present overseer of the poor of *Bollenfee* &c. had made information and complaint upon oath before the defendant, one of his majesty's justices of the peace &c., that *J. Maffey*, late of *Bollenfee* aforesaid, check manufacturer, had run away and left his wife and children chargeable (a) to the township of *B.* aforesaid ; commanded the constable forthwith to apprehend the plaintiff and bring him before the defendant &c. to answer the said information and complaint. Upon this warrant the plaintiff was apprehended on the next day, which being *Sunday*, he was brought before the defendant on *Monday* the 28th, in the custody of *Thomas Occlestone*, constable of *Bollenfee*, when the plaintiff, on being examined, refused to part with his property in order to provide for his family, or to give security to the parish ; and having previously declared his intention to go away, the defendant took the examination on the oath of *Thomas Occlestone* then present, in which he deposed that the plaintiff had left *Wilmslow*, his place of residence in *Bollenfee*, in *Oct.* 1806, and that his family consisting of a wife and two children had been chargeable to the township of *B.* since *March* 1807. Whereupon the defendant on the same 28th of *March* made out the following warrant of commitment of that date. " County of *Chester*.—

Warrant for
Apprehension.

(a) This is an act of vagrancy by stat. 17 G. 2. c. 5.

“ To the keeper of the common gaol &c. Receive into
 “ your custody the body of *J. Massey* herewith sent you,
 “ brought before me (the defendant) one of his majesty’s
 “ justices &c. by *T. Occleston*, constable of the township of
 “ *Bollenfee* &c., being charged on the oath of *Thomas Smith*,
 “ overseer of the poor of the said township &c. with running
 “ away and leaving his wife and two children, whereby they
 “ have been chargeable to the said township of *B.* since the
 “ 1st of *March* 1807; and him safely keep in your custody
 “ until the next general quarter sessions, and until he shall
 “ be discharged by due course of law,” &c. The defend-
 “ ant afterwards at the next quarter sessions on the 26th of
 “ *April* put in the following conviction. “ County of *Chester*, Conviction.
 “ to wit:—Be it remembered, that *John Massey*, late of *Bol-*
 “ *lenfee* in the county of *Chester*, chapman, is this day con-
 “ victed before me one of his majesty’s justices of the peace
 “ in and for the said county, of being a rogue and a vaga-
 “ bond; for that he the said *J. M.* between the 1st of *Jan.*
 “ 1808 and the 1st of *Feb.* 1808 did run away and leave his
 “ wife and family chargeable to the township of *B.* afore-
 “ said.” (Dated 28th of *March* 1808, and signed and sealed
 by the defendant.) This conviction was proved and relied
 upon at the trial by the defendant as an answer to the
 action (a); the rest of the evidence having been adduced by
 the plaintiff, or obtained on cross examination of his wit-
 nesses. And in order to shew that the action was brought in
 time, the plaintiff further proved the notice of the action
 before stated, and the writ issued in this suit indorsed with
 the name of the agent of the plaintiff’s attorney, and with
 the date of the 8th *Oct.* 1808, when it was sued out.

Two objections were taken on the part of the defendant
 to the action: 1st, That it was brought too late; the writ
 having been sued out on the 8th of *Oct.*, more than six
 months after the cause of action (b), which accrued on the
 28th of *March*. 2dly, That the conviction, while it re-
 mained in force, conclusively protected the defendant from
 being questioned in this form; according to the case of
Strickland v. Ward (c). But in order to save further expence

to

(a) At the quarter sessions, held at *Chester* on the 26th of
April 1808, the plaintiff, by an order of that court, reciting his
 commitment by the defendant for the cause stated in the warrant
 of commitment, was remanded to the same custody until the next
 sessions, or until he should be otherwise discharged by due course
 of law.

(b) Vide Stat. 24 G. 2. c. 44. s. 8.

(c) *Winchester* Summer assizes 1767, coram *Tates* J., cited in
Lowell v. Curry, 7 Term Rep. 633, 4. Vide *Hill v. Bateman and*
 Vol. V. 3 L. Another,

to the parties the whole case was left to the jury, in order to assess the damages, in case the plaintiff should ultimately be considered as entitled to recover; reserving the question of law for the consideration of this court. The jury accordingly found for the plaintiff 20l. damages: and leave was reserved to the defendant to move to set aside that verdict, and enter a nonsuit, if the court were of opinion that either of the

Another, 1 *Stra.* 710. where in an action of trespass and false imprisonment against a justice of peace and a constable, the case was, that the magistrate had convicted the plaintiff for destroying game; (the stat. 5 *An. c.* 14. *s.* 4. giving a penalty for this offence to be levied by distress, and only enabling the magistrate to commit the offender to the house of correction *for want of such distress*;) and though it was proved that the plaintiff had effects which might have been distrained sufficient to answer the penalty, yet the defendant sent him immediately to *Bridewell*, without endeavouring to levy the penalty—*Ld. C. J. Raymond* held that the action lay against the justice. And, as the report states, it was agreed that justices of peace, in such cases, were obliged to shew the regularity of their convictions; and that the informations, &c. laid before them, upon which their convictions were grounded, must be produced and proved in court. This opinion must have been given upon the supposition that it was necessary to shew such information laid before the magistrate in order to give him jurisdiction, in the particular case, for the purpose of protecting himself: for with respect to the constable who had executed the warrant of commitment, it was clearly agreed that the warrant was a sufficient justification; it being a matter within the general jurisdiction of the justice. But in the case of *Strickland v. Ward*, it does not appear that Mr. Justice *Tates* required any other evidence to be produced in justification of the magistrate than the conviction itself, and the warrant of commitment granted thereupon; on which says Mr. Justice *Tates* in his own MS. "I gave my opinion that this conviction could not be controverted in evidence; that the justice, having a competent jurisdiction of the matter, his judgment was conclusive till reversed or quashed; and that it could not be set aside at nisi prius." The jurisdiction of the magistrate being granted, the conclusiveness of the conviction in a collateral proceeding, that is, the propriety of the conclusion drawn by him from the whole matter before him, seems clear upon principle and all the authorities: the only question upon these cases would be, Whether, as against the magistrate himself, the conviction alone would be conclusive evidence of his jurisdiction in the particular case; or, if not conclusive, at least presumptive evidence of it; or, whether it were necessary for him to shew the information on oath laid before him; or competent for the plaintiff in the action to negative by evidence the fact of any such information, as stated by the magistrate in his conviction, having been laid before him in order to shew that he had no jurisdiction in the particular case. *Vide Grepp v. Durdan*, *Coamp.* 640. *Darison v. Gibb*, 31 *East*, 64 and *Welch v. Nisb*, 8 *East*. 394.

objections

objections to the action was well founded. A rule nisi was accordingly obtained in the last term, which now came on to be argued.

Upon the first point it was observed by *Le Blanc J.* that the plaintiff was estopped by the lapse of more than six months before the action brought from insisting upon the illegality of the caption under the warrant of apprehension, grounded as the plaintiff's counsel insisted upon a false allegation that *Thomas Smith*, the overseer of the poor of *Bollenfee*, had made information and complaint upon oath before the defendant that the plaintiff had committed an act of vagrancy. But it being observed by the plaintiff's counsel, that the plaintiff continued in gaol under the defendant's commitment of the 28th of *March* down to the 26th of *April* (after which his further imprisonment was under the order of the quarter sessions), which was within six months before the suing out of the writ on the 8th of *Oct.*, this objection finally took another shape; upon which the question was, whether the imprisonment under the commitment of the 28th of *March* could be covered by the conviction, which was not exhibited and, for aught that appeared, was not drawn up and executed by the defendant till the 26th of *April*; and there being no proof of any minutes of a conviction made on the 28th of *March*, which was contended to be necessary to warrant the antedating of a more formal conviction. But the court had no doubt, that supposing the magistrate to have had jurisdiction to convict, and that upon information laid before him upon oath he had in fact convicted the plaintiff on the 28th of *March*, it was competent to him to draw up the conviction at a future time in regular form, and to protect himself by it. And here, they observed, that the conviction purported on the face of it to have been made on the 28th of *March*: and there was no evidence to shew that it was in fact made at any other time. But the difficulty felt by the court, as expressed by the Lord Chief Justice, was this; supposing the conviction drawn up in this general form to be sufficient for this purpose, (which was denied by the plaintiff's counsel; and admitted by the defendant's counsel to be informally drawn up,) how the imprisonment under the warrant of commitment could be connected with it; there being no internal reference to connect the two papers: and then the warrant of commitment expressing upon the face of it to have been made upon the information on oath of *Thomas Smith*; an allegation which was shewn by evidence to be false; it was difficult to refer that to a legal and valid conviction, which must be presumed to have proceeded upon a true fact. The counsel for the plaintiff adopted this suggestion, and further contended, that whether the record of conviction,

on which the defendant rested his justification at the trial, were or were not connected with the warrant of commitment, the defence equally failed. If not connected, the conviction appeared to have been made without any information on oath, or any hearing of the party accused, and was therefore illegal and void both in form and substance. For though a magistrate may proceed in such cases upon his own view; yet if he allege his conviction to be founded upon the information of another, and such allegation be proved to be false, the foundation fails. And a magistrate cannot protect himself against an action for false imprisonment by drawing up a paper in the name of a conviction without any facts to warrant it. But if the instruments were connected, then the conviction partook of the original vice of the commitment, which was founded upon the allegation of a false fact. Considering them as unconnected, there was no conviction either in fact or in law to justify the imprisonment. The warrant of commitment was not of itself a conviction; it did not profess to be so; and in *Rex v. Rhodes* (a), confirmed in *Rex v. Cooper* (b), such a warrant was held to be illegal for want of a previous conviction. The warrant of commitment ought, as it was there said, to include a conviction. The magistrate ought to have stated that there was an information on oath laid before him of such and such facts (amounting to an act of vagrancy); and that after hearing the evidence before the accused, and his defence, if any, he had found him guilty of the offence; and then he should proceed to his commitment. They further contended that the stat. 43 G. 3. c. 141. only extended to cases where there had been a conviction, and that conviction had been *quashed*; for the legislature considered, that while the conviction remained in force, the magistrate having jurisdiction to convict in the particular instance would be protected by it in any collateral proceeding, as before the statute; and therefore only needed the protection of the statute where the conviction had been *quashed*, as it might be, for any irregularity in the form of the proceeding. It was therefore still competent for the plaintiff in this case to bring his action of trespass, the conviction not having been *quashed*, though insufficient to protect the defendant, by reason of

(a) 4 Term Rep. 220. In *Hil.* 37 G. 3. this court 'quashed a similar instrument, drawn up in the same words as the warrant of commitment in *Rex v. Rhodes*, which was intended to have effect as a conviction and commitment in execution, and ordered the party, *Richard Devereux Combe*, who was brought up on *habeas corpus*, to be discharged.

(b) 6 Term Rep. 509.

the falsity of the allegation, as to the information on the oath of T. S., which was the foundation of the defendant's jurisdiction in the particular case. And they also suggested that the act was confined to cases where a defendant has been convicted in a penalty; for it says that the plaintiff in the action, *besides* the amount of the *penalty* levied, in case any levy thereof shall have been made, shall not be entitled to recover more than 2*d.* damages, &c.

In answer, however, to this part of the argument, it was said, *e contra*, that the act was plainly not confined only to cases where penalties were or might be levied, but that it extended to every case, whether a penalty were leviable or not; providing only for the recovery of the penalty, if levied, in addition to the damages, where the conviction has been quashed. And of this opinion were the whole court.

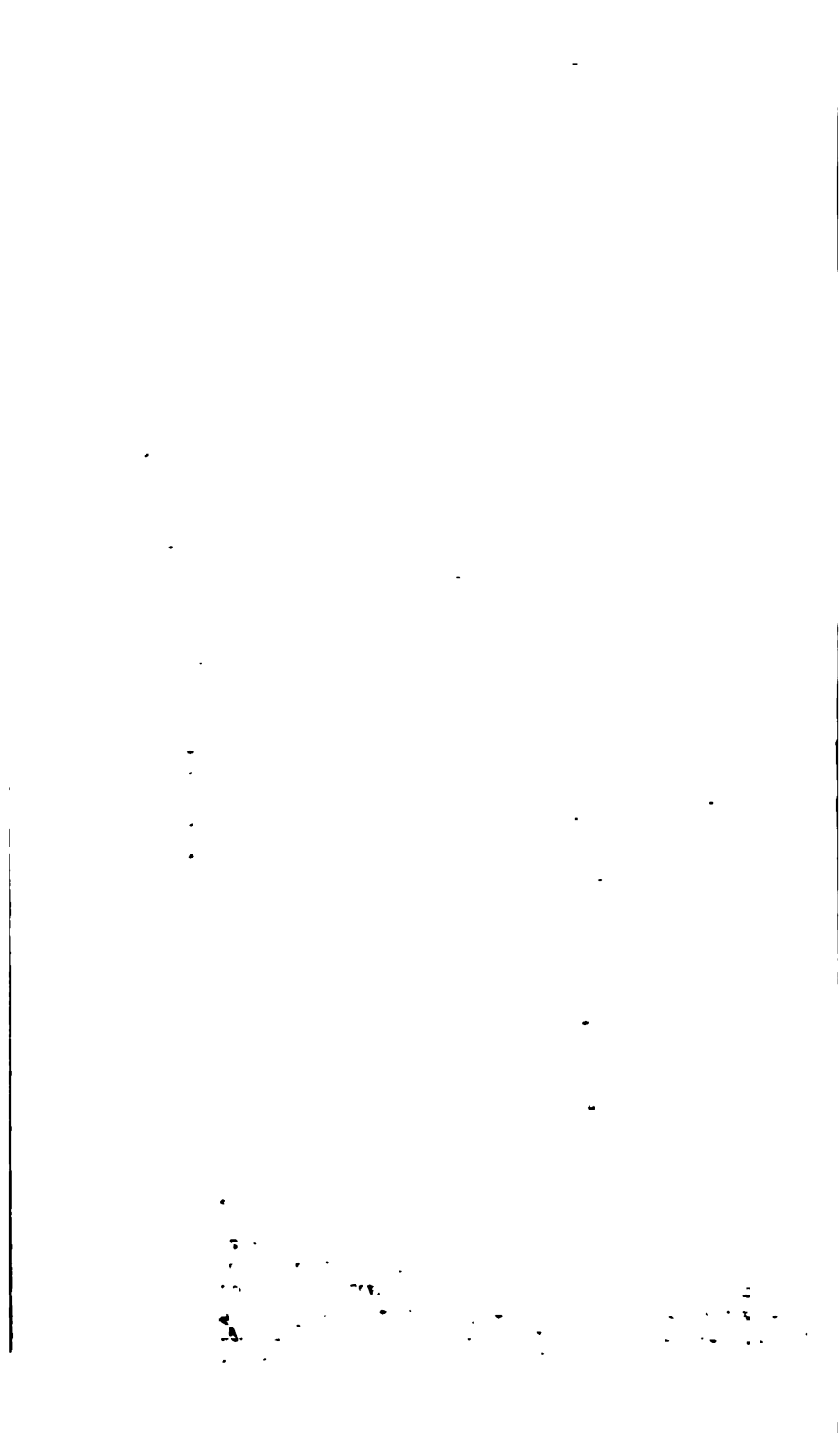
In support of the rule, it was observed with respect to the argument, 'that the stat. 43 G. 3. applied only to cases where the conviction had been *quashed*;' that the legislature could never have intended to protect magistrates after their convictions had been adjudged to be bad, and were quashed, and yet to leave them unprotected while their convictions were still nominally in force, however vicious in the form of them. It certainly was their intention to protect the magistrates by this statute in every case where the conviction itself did not protect them. They then contended upon the principal question, that it was sufficient if the magistrate, on hearing the information or complaint, upon oath, and the defence of the party accused, came to the conclusion that he was guilty, for that was a conviction; and it was competent to him to draw up such conviction in formal language at any time afterwards; and this, whether he had made minutes of the proceeding at the time or not, however proper it might be, for the sake of certainty, to make such minutes. Then taking the whole of the facts together as proved in evidence, it appeared that the plaintiff had been legally convicted, although such conviction had not been drawn up and committed to writing in proper form. There was a regular information on oath, laid before him on the 28th of *March* by T. *Occlestone*, of *Bollenfee*, charging the plaintiff with having deserted his family for some time previous, and that they had been chargeable to the township: and the plaintiff himself, when questioned, refused to provide for them or to give security to the township, though he had property there sufficient for the purpose. The defendant must then have come to the conclusion that he was guilty; for the warrant of commitment dealt with the plaintiff as a person who

stood convicted. This is the effect and substance of it; though not correctly expressed in the warrant; for it states the evidence of the act of vagrancy to be the vagrancy, when the magistrate ought regularly to have convicted the plaintiff of being a vagrant upon that evidence stated, and upon the result of the hearing of the whole matter of the charge and defence: and there is also a palpable mistake in stating the charge upon oath to have been made by *T. Smith*, instead of *T. Occlestone*, by whom it was in fact made. Then the conviction afterwards drawn up, with which the commitment is connected by the whole scope of the evidence, expressly states the plaintiff to have been, on the same 28th of *March*, convicted before the defendant of being a rogue and vagabond, upon the fact of deserting his family and leaving them chargeable to the township. But however irregularly the conviction of the warrant of commitment may be drawn up, it is not less a conviction *in fact*, and does not the less bring the convicting magistrate within the protection of the statute. Suppose an action on the case had been brought, and these facts had been proved, it could not have been objected by the defendant to such an action, that the conviction was irregular, or that the warrant of commitment was not issued for the purpose of carrying that conviction into execution; and therefore that the action ought to have been trespass. When the facts of a conviction and of the warrant of commitment were given in evidence, it was competent to the plaintiff to contradict the fact, stated in the warrant, of the information not having been given on oath by *T. Smith*. But though the conviction and the warrant of commitment were not connected by the evidence, it would be sufficient for the purpose of defence against this action, to shew that the warrant of commitment was itself a conviction, though an irregular one, to entitle the defendant to the protection of the act. The magistrate heard the plaintiff upon a charge of vagrancy; and must either acquit or convict him: then if he send him to gaol to be there kept till the next sessions, as a commitment under the vagrant act to the next sessions is a commitment in execution, this of itself operates as a conviction, however informally it may be drawn up. The commitment states the same facts as the conviction.

Lord *Ellenborough* C. J. I will assume for this purpose that there ought to be a regular ground-work for the conviction of the plaintiff on the 28th of *March*; but there was in fact a regular information on oath laid before the magistrate, and a hearing of the plaintiff upon the charge. Then the magistrate being warranted in taking cognizance of the charge, and in committing the party, if in fact he did
convict

convict him of that charge; after a conviction in fact the magistrate was authorized to commit the plaintiff; and the conviction might be drawn up in form at a future time. Then having in fact convicted, and being warranted to commit, the plaintiff, though the defendant has misrecited in the warrant of commitment that he acted upon the information *on oath of Thomas Smith*, when in truth it was upon the information of another person; yet that may be rejected as surplusage, and the rest of the commitment will stand good. This recital of a false fact in the warrant of commitment is the only thing which has kept my mind in suspense, on account of the difficulty of connecting the imprisonment under it with the conviction: but by rejecting from the warrant of commitment the words as to the person by whom the information was made, the warrant will stand good for this purpose: and then the conviction, which may be drawn up at any time afterwards, if in fact the party were convicted, and which was afterwards exhibited, shews that the plaintiff was convicted of the offence for which he was committed. This is sufficient at all events to protect the magistrate in this action.

The other judges expressed themselves satisfied on this ground. And *Le Blanc J.* added, that the objection would have assumed a very different shape, if there had been no information on oath of any person whereon to found the conviction; the information on oath of *T. Smith*, on which the conviction professed to be founded, having been negatived by the evidence: but there was in fact an information on oath laid before the magistrate by *T. Occlestone*, which at all events authorized the proceedings.



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Tear, Day, and Waste. See *Forfeiture*.

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THE END.

ERRATA.

VOL. I.

222. l. 9. for *pop* read *pop*.
 58. l. 13. after title insert *Military Law*.
 60. l. 43. for ' J. P. of ' read ' me J. P. one of '
 67. l. 29. after *law* insert 'for the same offence.'
 226. l. 27. for 214 read 234.
 283. l. 3. 5. after *deluged* insert 'Robertson
 and another *esigues* v. Liddell,
 9 E. R. 487.'
 235. l. 10. for *defendant* read *plaintiff*.
 249. l. 26. *ditto* all.
 299. l. 46. *delo* ' 4th Ed.'
 305. l. 16. for *be* read *was*.
 308. l. 10. for *be* read *me*.
 373. l. at bottom, after l. insert 2.
 381. l. 3. after *same* insert *time*.
 384. l. 6. for *college* read *cottage*.
 398. l. 21. for 360 read 396.
 450. l. 7. for *arise* read *arms*.
 455. l. 26. after c. 34 insert ' 47. G. 3. sess. 2.
 c. lxviii.'
 585. l. 7. after *of* insert ' by a reasonable
 time.'
 721. l. 23. for *of* read *on*.
 744. l. 26. for *legitimacy* read *illegitimacy*.
 749. l. 12. for *settlement* read *removal*.

VOL. II.

- P. 14. l. 34. before *or* insert ' in apprehending.'
 270. l. 32. for *paid* read *paid*.
 205. l. 34. for *is* read *are*.
 234. l. 40. after ' and the ' insert *vessel*.
 253. l. 9. for *ton* read *tun*.
 258. l. 12. for 259. read 260.
 277. l. 15. for *con-* read *convict*.
 309. l. 14. for *quarts* read *gallons*.
 l. 15. for *gallon* read *barrel*.
 385. l. 11. for *Lombard* read *Lambard*.
 445. l. 29. for *this* read *his*.
 578. l. 7. for G. 9. read G. 3.
 628. l. 35. for *sums* read *sum*.
 672. l. 12. for *either* read *neither*.

713. l. 18. *delo* *said*.
 859. l. 12. for *their* read *the*.
 865. l. 21. for *seems* read *seem*.
 866. l. 8. for *lay* read *lay*.

VOL. III.

- P. 17. last line, for 4th read 5th.
 28. l. 28. after G. 3. insert ' U. R.
 162. l. 37. for *is* read *see*.
 164. l. 45. for *fraudum* read *fraudem*.
 189. l. 22. for 72. read 62.
 305. l. 3. for *appointment* read *apportionment*.
 336. l. 24. for 1870 read 1812.
 359. l. 6. after *shall* insert *not*.
 384. *delo* marginal note to f. 12.
 435. l. 17. for *whole* read *whole*.
 476. l. 5. for *being* read *been*.
 492. l. 28. after *agreement* insert ' that the
 person to whom or for whose use
 such office appointment &c.'
 592. l. 10. for *owning* read *owing*.
 l. 25. for 7. read ii.]
 513. l. 45. for *even* read *ever*.]

[Note.—The Errata in Vol. IV. are placed at the End of that Volume.]

VOL. V.

- P. 26. l. 25. *delo* 32 G. 3. c. 36. f. 1—6.
 351. l. 11. for *Wurd's* read *Wood's*.
 399. after *Sect. III. &c.* add ' *Sect. IV. Of*
the regulating acts.'
 496. l. 30. after *the* insert *time*.
 552. after l. 20. insert ix. (6).
 560. at the end of l. 33. insert ' ix. (7.) *Of*
levying the duties on tithes &c.'
 576. l. 32. for *ar* read *an*.
 703. l. 1. after T. L. *delo* to.
 825. l. 40. for *kin's* read *king's*.
 838. l. 15. for *to* read *may*.

